

culture and the land grant colleges, shall be fined under this title or imprisoned not more than six months, or both.

(June 25, 1948, ch. 645, 62 Stat. 743; Pub. L. 103-322, title XXXIII, § 330016(1)(F), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 76c (June 5, 1939, ch. 184, § 1, 53 Stat. 809).

Section 76c of title 18, U.S.C., 1940 ed., was incorporated in this section and section 707 of this title.

Reference to offense as a misdemeanor was omitted in view of definitive section 1 of this title. Words “upon conviction thereof” were omitted, since criminal punishment can follow only after conviction.

Minor changes were made in phraseology.

AMENDMENTS

1994—Pub. L. 103-322 substituted “fined under this title” for “fined not more than \$300”.

§ 917. Red Cross members or agents

Whoever, within the United States, falsely or fraudulently holds himself out as or represents or pretends himself to be a member of or an agent for the American National Red Cross for the purpose of soliciting, collecting, or receiving money or material, shall be fined under this title or imprisoned not more than 5 years, or both.

(June 25, 1948, ch. 645, 62 Stat. 743; Pub. L. 103-322, title XXXIII, § 330016(1)(G), Sept. 13, 1994, 108 Stat. 2147; Pub. L. 107-56, title X, § 1011(c), Oct. 26, 2001, 115 Stat. 396.)

HISTORICAL AND REVISION NOTES

Based on section 4 of title 36, U.S.C., 1940 ed., Patriotic Societies and Observances (Jan. 5, 1905, ch. 23, § 4, 33 Stat. 600; June 23, 1910, ch. 372, § 1, 36 Stat. 604).

Section 4 of title 36, U.S.C., 1940 ed., Patriotic Societies and Observances, was divided into this section and section 706 of this title.

Reference to “jurisdiction” of the United States was omitted as unnecessary in view of definition of “United States” in section 5 of this title.

Reference to offense as a misdemeanor was omitted in view of definitive section 1 of this title.

Words “upon conviction thereof” were omitted as punishment cannot be imposed until conviction is secured.

Minor changes were made in phraseology.

AMENDMENTS

2001—Pub. L. 107-56 substituted “5 years” for “one year”.

1994—Pub. L. 103-322 substituted “fined under this title” for “fined not more than \$500”.

CHAPTER 44—FIREARMS

Sec.	Definitions.
921.	Unlawful acts.
922.	Licensing.
923.	Penalties.
924.	Exceptions: Relief from disabilities.
925.	Remedy for erroneous denial of firearm.
925A.	Rules and regulations.
926.	Interstate transportation of firearms.
926A.	Carrying of concealed firearms by qualified law enforcement officers.
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Sec.	Separability.
928.	Use of restricted ammunition.
929.	Possession of firearms and dangerous weapons in Federal facilities.
930.	Prohibition on purchase, ownership, or possession of body armor by violent felons.
931.	

AMENDMENTS

2004—Pub. L. 108-277, §§ 2(b), 3(b), July 22, 2004, 118 Stat. 866, 867, added items 926B and 926C.

2002—Pub. L. 107-273, div. C, title I, § 11009(e)(2)(B), Nov. 2, 2002, 116 Stat. 1821, added item 931.

1993—Pub. L. 103-159, title I, § 104(b), Nov. 30, 1993, 107 Stat. 1543, added item 925A.

1990—Pub. L. 101-647, title XXXV, § 3523, Nov. 29, 1990, 104 Stat. 4924, struck out “clause” after “Separability” in item 928.

1988—Pub. L. 100-690, title VI, § 6215(b), Nov. 18, 1988, 102 Stat. 4362, added item 930.

1986—Pub. L. 99-308, § 107(b), May 19, 1986, 100 Stat. 460, added item 926A.

1984—Pub. L. 98-473, title II, § 1006(b), Oct. 12, 1984, 98 Stat. 2139, added item 929.

1968—Pub. L. 90-618, title I, § 102, Oct. 22, 1968, 82 Stat. 1214, reenacted chapter analysis without change.

Pub. L. 90-351, title IV, § 902, June 19, 1968, 82 Stat. 226, added chapter 44 and items 921 to 928.

§ 921. Definitions

(a) As used in this chapter—

(1) The term “person” and the term “whoever” include any individual, corporation, company, association, firm, partnership, society, or joint stock company.

(2) The term “interstate or foreign commerce” includes commerce between any place in a State and any place outside of that State, or within any possession of the United States (not including the Canal Zone) or the District of Columbia, but such term does not include commerce between places within the same State but through any place outside of that State. The term “State” includes the District of Columbia, the Commonwealth of Puerto Rico, and the possessions of the United States (not including the Canal Zone).

(3) The term “firearm” means (A) any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of an explosive; (B) the frame or receiver of any such weapon; (C) any firearm muffler or firearm silencer; or (D) any destructive device. Such term does not include an antique firearm.

(4) The term “destructive device” means—

(A) any explosive, incendiary, or poison gas—

(i) bomb,

(ii) grenade,

(iii) rocket having a propellant charge of more than four ounces,

(iv) missile having an explosive or incendiary charge of more than one-quarter ounce,

(v) mine, or

(vi) device similar to any of the devices described in the preceding clauses;

(B) any type of weapon (other than a shotgun or a shotgun shell which the Attorney General finds is generally recognized as particularly suitable for sporting purposes) by whatever name known which will, or which may be readily converted to, expel a projectile

by the action of an explosive or other propellant, and which has any barrel with a bore of more than one-half inch in diameter; and

(C) any combination of parts either designed or intended for use in converting any device into any destructive device described in subparagraph (A) or (B) and from which a destructive device may be readily assembled.

The term “destructive device” shall not include any device which is neither designed nor redesigned for use as a weapon; any device, although originally designed for use as a weapon, which is redesigned for use as a signaling, pyrotechnic, line throwing, safety, or similar device; surplus ordnance sold, loaned, or given by the Secretary of the Army pursuant to the provisions of section 4684(2), 4685, or 4686 of title 10; or any other device which the Attorney General finds is not likely to be used as a weapon, is an antique, or is a rifle which the owner intends to use solely for sporting, recreational or cultural purposes.

(5) The term “shotgun” means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of an explosive to fire through a smooth bore either a number of ball shot or a single projectile for each single pull of the trigger.

(6) The term “short-barreled shotgun” means a shotgun having one or more barrels less than eighteen inches in length and any weapon made from a shotgun (whether by alteration, modification or otherwise) if such a weapon as modified has an overall length of less than twenty-six inches.

(7) The term “rifle” means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of an explosive to fire only a single projectile through a rifled bore for each single pull of the trigger.

(8) The term “short-barreled rifle” means a rifle having one or more barrels less than sixteen inches in length and any weapon made from a rifle (whether by alteration, modification, or otherwise) if such weapon, as modified, has an overall length of less than twenty-six inches.

(9) The term “importer” means any person engaged in the business of importing or bringing firearms or ammunition into the United States for purposes of sale or distribution; and the term “licensed importer” means any such person licensed under the provisions of this chapter.

(10) The term “manufacturer” means any person engaged in the business of manufacturing firearms or ammunition for purposes of sale or distribution; and the term “licensed manufacturer” means any such person licensed under the provisions of this chapter.

(11) The term “dealer” means (A) any person engaged in the business of selling firearms at wholesale or retail, (B) any person engaged in the business of repairing firearms or of making or fitting special barrels, stocks, or trigger mechanisms to firearms, or (C) any person who is a pawnbroker. The term “licensed dealer” means any dealer who is licensed under the provisions of this chapter.

(12) The term “pawnbroker” means any person whose business or occupation includes the tak-

ing or receiving, by way of pledge or pawn, of any firearm as security for the payment or repayment of money.

(13) The term “collector” means any person who acquires, holds, or disposes of firearms as curios or relics, as the Attorney General shall by regulation define, and the term “licensed collector” means any such person licensed under the provisions of this chapter.

(14) The term “indictment” includes an indictment or information in any court under which a crime punishable by imprisonment for a term exceeding one year may be prosecuted.

(15) The term “fugitive from justice” means any person who has fled from any State to avoid prosecution for a crime or to avoid giving testimony in any criminal proceeding.

(16) The term “antique firearm” means—

(A) any firearm (including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system) manufactured in or before 1898; or

(B) any replica of any firearm described in subparagraph (A) if such replica—

(i) is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition, or

(ii) uses rimfire or conventional centerfire fixed ammunition which is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial trade; or

(C) any muzzle loading rifle, muzzle loading shotgun, or muzzle loading pistol, which is designed to use black powder, or a black powder substitute, and which cannot use fixed ammunition. For purposes of this subparagraph, the term “antique firearm” shall not include any weapon which incorporates a firearm frame or receiver, any firearm which is converted into a muzzle loading weapon, or any muzzle loading weapon which can be readily converted to fire fixed ammunition by replacing the barrel, bolt, breechblock, or any combination thereof.

(17)(A) The term “ammunition” means ammunition or cartridge cases, primers, bullets, or propellant powder designed for use in any firearm.

(B) The term “armor piercing ammunition” means—

(i) a projectile or projectile core which may be used in a handgun and which is constructed entirely (excluding the presence of traces of other substances) from one or a combination of tungsten alloys, steel, iron, brass, bronze, beryllium copper, or depleted uranium; or

(ii) a full jacketed projectile larger than .22 caliber designed and intended for use in a handgun and whose jacket has a weight of more than 25 percent of the total weight of the projectile.

(C) The term “armor piercing ammunition” does not include shotgun shot required by Federal or State environmental or game regulations for hunting purposes, a frangible projectile designed for target shooting, a projectile which the Attorney General finds is primarily intended to be used for sporting purposes, or any other projectile or projectile core which the Attorney General finds is intended to be used for indus-

trial purposes, including a charge used in an oil and gas well perforating device.

(18) The term “Attorney General” means the Attorney General of the United States¹

(19) The term “published ordinance” means a published law of any political subdivision of a State which the Attorney General determines to be relevant to the enforcement of this chapter and which is contained on a list compiled by the Attorney General, which list shall be published in the Federal Register, revised annually, and furnished to each licensee under this chapter.

(20) The term “crime punishable by imprisonment for a term exceeding one year” does not include—

(A) any Federal or State offenses pertaining to antitrust violations, unfair trade practices, restraints of trade, or other similar offenses relating to the regulation of business practices, or

(B) any State offense classified by the laws of the State as a misdemeanor and punishable by a term of imprisonment of two years or less.

What constitutes a conviction of such a crime shall be determined in accordance with the law of the jurisdiction in which the proceedings were held. Any conviction which has been expunged, or set aside or for which a person has been pardoned or has had civil rights restored shall not be considered a conviction for purposes of this chapter, unless such pardon, expungement, or restoration of civil rights expressly provides that the person may not ship, transport, possess, or receive firearms.

(21) The term “engaged in the business” means—

(A) as applied to a manufacturer of firearms, a person who devotes time, attention, and labor to manufacturing firearms as a regular course of trade or business with the principal objective of livelihood and profit through the sale or distribution of the firearms manufactured;

(B) as applied to a manufacturer of ammunition, a person who devotes time, attention, and labor to manufacturing ammunition as a regular course of trade or business with the principal objective of livelihood and profit through the sale or distribution of the ammunition manufactured;

(C) as applied to a dealer in firearms, as defined in section 921(a)(11)(A), a person who devotes time, attention, and labor to dealing in firearms as a regular course of trade or business with the principal objective of livelihood and profit through the repetitive purchase and resale of firearms, but such term shall not include a person who makes occasional sales, exchanges, or purchases of firearms for the enhancement of a personal collection or for a hobby, or who sells all or part of his personal collection of firearms;

(D) as applied to a dealer in firearms, as defined in section 921(a)(11)(B), a person who devotes time, attention, and labor to engaging in such activity as a regular course of trade or business with the principal objective of liveli-

hood and profit, but such term shall not include a person who makes occasional repairs of firearms, or who occasionally fits special barrels, stocks, or trigger mechanisms to firearms;

(E) as applied to an importer of firearms, a person who devotes time, attention, and labor to importing firearms as a regular course of trade or business with the principal objective of livelihood and profit through the sale or distribution of the firearms imported; and

(F) as applied to an importer of ammunition, a person who devotes time, attention, and labor to importing ammunition as a regular course of trade or business with the principal objective of livelihood and profit through the sale or distribution of the ammunition imported.

(22) The term “with the principal objective of livelihood and profit” means that the intent underlying the sale or disposition of firearms is predominantly one of obtaining livelihood and pecuniary gain, as opposed to other intents, such as improving or liquidating a personal firearms collection: *Provided*, That proof of profit shall not be required as to a person who engages in the regular and repetitive purchase and disposition of firearms for criminal purposes or terrorism. For purposes of this paragraph, the term “terrorism” means activity, directed against United States persons, which—

(A) is committed by an individual who is not a national or permanent resident alien of the United States;

(B) involves violent acts or acts dangerous to human life which would be a criminal violation if committed within the jurisdiction of the United States; and

(C) is intended—

(i) to intimidate or coerce a civilian population;

(ii) to influence the policy of a government by intimidation or coercion; or

(iii) to affect the conduct of a government by assassination or kidnapping.

(23) The term “machinegun” has the meaning given such term in section 5845(b) of the National Firearms Act (26 U.S.C. 5845(b)).

(24) The terms “firearm silencer” and “firearm muffler” mean any device for silencing, muffling, or diminishing the report of a portable firearm, including any combination of parts, designed or redesigned, and intended for use in assembling or fabricating a firearm silencer or firearm muffler, and any part intended only for use in such assembly or fabrication.

(25) The term “school zone” means—

(A) in, or on the grounds of, a public, parochial or private school; or

(B) within a distance of 1,000 feet from the grounds of a public, parochial or private school.

(26) The term “school” means a school which provides elementary or secondary education, as determined under State law.

(27) The term “motor vehicle” has the meaning given such term in section 13102 of title 49, United States Code.

(28) The term “semiautomatic rifle” means any repeating rifle which utilizes a portion of

¹ So in original. Probably should be followed by a period.

the energy of a firing cartridge to extract the fired cartridge case and chamber the next round, and which requires a separate pull of the trigger to fire each cartridge.

(29) The term “handgun” means—

(A) a firearm which has a short stock and is designed to be held and fired by the use of a single hand; and

(B) any combination of parts from which a firearm described in subparagraph (A) can be assembled.

[(30), (31) Repealed. Pub. L. 103-322, title XI, § 110105(2), Sept. 13, 1994, 108 Stat. 2000.]

(32) The term “intimate partner” means, with respect to a person, the spouse of the person, a former spouse of the person, an individual who is a parent of a child of the person, and an individual who cohabitates or has cohabited with the person.

(33)(A) Except as provided in subparagraph (C),² the term “misdemeanor crime of domestic violence” means an offense that—

(i) is a misdemeanor under Federal, State, or Tribal³ law; and

(ii) has, as an element, the use or attempted use of physical force, or the threatened use of a deadly weapon, committed by a current or former spouse, parent, or guardian of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited with the victim as a spouse, parent, or guardian, or by a person similarly situated to a spouse, parent, or guardian of the victim.

(B)(i) A person shall not be considered to have been convicted of such an offense for purposes of this chapter, unless—

(I) the person was represented by counsel in the case, or knowingly and intelligently waived the right to counsel in the case; and

(II) in the case of a prosecution for an offense described in this paragraph for which a person was entitled to a jury trial in the jurisdiction in which the case was tried, either

(aa) the case was tried by a jury, or

(bb) the person knowingly and intelligently waived the right to have the case tried by a jury, by guilty plea or otherwise.

(ii) A person shall not be considered to have been convicted of such an offense for purposes of this chapter if the conviction has been expunged or set aside, or is an offense for which the person has been pardoned or has had civil rights restored (if the law of the applicable jurisdiction provides for the loss of civil rights under such an offense) unless the pardon, expungement, or restoration of civil rights expressly provides that the person may not ship, transport, possess, or receive firearms.

(34) The term “secure gun storage or safety device” means—

(A) a device that, when installed on a firearm, is designed to prevent the firearm from being operated without first deactivating the device;

(B) a device incorporated into the design of the firearm that is designed to prevent the op-

eration of the firearm by anyone not having access to the device; or

(C) a safe, gun safe, gun case, lock box, or other device that is designed to be or can be used to store a firearm and that is designed to be unlocked only by means of a key, a combination, or other similar means.

(35) The term “body armor” means any product sold or offered for sale, in interstate or foreign commerce, as personal protective body covering intended to protect against gunfire, regardless of whether the product is to be worn alone or is sold as a complement to another product or garment.

(b) For the purposes of this chapter, a member of the Armed Forces on active duty is a resident of the State in which his permanent duty station is located.

(Added Pub. L. 90-351, title IV, § 902, June 19, 1968, 82 Stat. 226; amended Pub. L. 90-618, title I, § 102, Oct. 22, 1968, 82 Stat. 1214; Pub. L. 93-639, § 102, Jan. 4, 1975, 88 Stat. 2217; Pub. L. 99-308, § 101, May 19, 1986, 100 Stat. 449; Pub. L. 99-360, § 1(b), July 8, 1986, 100 Stat. 766; Pub. L. 99-408, § 1, Aug. 28, 1986, 100 Stat. 920; Pub. L. 101-647, title XVII, § 1702(b)(2), title XXII, § 2204(a), Nov. 29, 1990, 104 Stat. 4845, 4857; Pub. L. 103-159, title I, § 102(a)(2), Nov. 30, 1993, 107 Stat. 1539; Pub. L. 103-322, title XI, §§ 110102(b), 110103(b), 110105(2), 110401(a), 110519, title XXXIII, § 330021(1), Sept. 13, 1994, 108 Stat. 1997, 1999, 2000, 2014, 2020, 2150; Pub. L. 104-88, title III, § 303(1), Dec. 29, 1995, 109 Stat. 943; Pub. L. 104-208, div. A, title I, § 101(f) [title VI, § 658(a)], Sept. 30, 1996, 110 Stat. 3009-314, 3009-371; Pub. L. 105-277, div. A, § 101(b) [title I, § 119(a)], (h) [title I, § 115], Oct. 21, 1998, 112 Stat. 2681-50, 2681-69, 2681-480, 2681-490; Pub. L. 107-273, div. C, title I, § 11009(e)(1), Nov. 2, 2002, 116 Stat. 1821; Pub. L. 107-296, title XI, § 1112(f)(1)-(3), (6), Nov. 25, 2002, 116 Stat. 2276; Pub. L. 109-162, title IX, § 908(a), Jan. 5, 2006, 119 Stat. 3083.)

REFERENCES IN TEXT

For definition of Canal Zone, referred to in subsec. (a)(2), see section 3602(b) of Title 22, Foreign Relations and Intercourse.

AMENDMENTS

2006—Subsec. (a)(33)(A)(i). Pub. L. 109-162, which directed the general amendment of “section 921(33)(A)(i) of title 18”, was executed to par. (33)(A)(i) of subsec. (a), to reflect the probable intent of Congress. Prior to amendment, cl. (i) read as follows: “is a misdemeanor under Federal or State law; and”.

2002—Subsec. (a)(4). Pub. L. 107-296, § 1112(f)(2), substituted “Attorney General” for “Secretary of the Treasury” in concluding provisions.

Subsec. (a)(4)(B). Pub. L. 107-296, § 1112(f)(1), substituted “Attorney General” for “Secretary”.

Subsec. (a)(13), (17)(C). Pub. L. 107-296, § 1112(f)(6), substituted “Attorney General” for “Secretary” wherever appearing.

Subsec. (a)(18). Pub. L. 107-296, § 1112(f)(3), added par. (18) and struck out former par. (18) which read as follows: “The term ‘Secretary’ or ‘Secretary of the Treasury’ means the Secretary of the Treasury or his delegate.”

Subsec. (a)(19). Pub. L. 107-296, § 1112(f)(6), substituted “Attorney General” for “Secretary” in two places.

Subsec. (a)(35). Pub. L. 107-273 added par. (35).

1998—Subsec. (a)(5). Pub. L. 105-277, § 101(h) [title I, § 115(1)], substituted “an explosive” for “the explosive in a fixed shotgun shell”.

² So in original. No subparagraph (C) has been enacted.

³ So in original. Probably should not be capitalized.

Subsec. (a)(7). Pub. L. 105-277, §101(h) [title I, §115(2)], substituted "an explosive" for "the explosive in a fixed metallic cartridge".

Subsec. (a)(16). Pub. L. 105-277, §101(h) [title I, §115(3)], added par. (16) and struck out former par. (16) which read as follows: "The term 'antique firearm' means—

"(A) any firearm (including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system) manufactured in or before 1898; and

"(B) any replica of any firearm described in subparagraph (A) if such replica—

"(i) is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition, or

"(ii) uses rimfire or conventional centerfire fixed ammunition which is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial trade."

Subsec. (a)(34). Pub. L. 105-277, §101(b) [title I, §119(a)], added par. (34).

1996—Subsec. (a)(33). Pub. L. 104-208 added par. (33).

1995—Subsec. (a)(27). Pub. L. 104-88 substituted "section 13102" for "section 10102".

1994—Subsec. (a)(17)(B). Pub. L. 103-322, §110519, amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: "The term 'armor piercing ammunition' means a projectile or projectile core which may be used in a handgun and which is constructed entirely (excluding the presence of traces of other substances) from one or a combination of tungsten alloys, steel, iron, brass, bronze, beryllium copper, or depleted uranium. Such term does not include shotgun shot required by Federal or State environmental or game regulations for hunting purposes, a frangible projectile designed for target shooting, a projectile which the Secretary finds is primarily intended to be used for sporting purposes, or any other projectile or projectile core which the Secretary finds is intended to be used for industrial purposes, including a charge used in an oil and gas well perforating device."

Subsec. (a)(17)(C). Pub. L. 103-322, §110519, added subpar. (C).

Subsec. (a)(22)(C)(iii). Pub. L. 103-322, §330021(1), substituted "kidnapping" for "kidnaping".

Subsec. (a)(30). Pub. L. 103-322, §110102(b), which added par. (30) defining "semiautomatic assault weapon", was repealed by Pub. L. 103-322, §110105(2). See Effective and Termination Dates of 1994 Amendment note below.

Subsec. (a)(31). Pub. L. 103-322, §110103(b), which added par. (31) defining "large capacity ammunition feeding device", was repealed by Pub. L. 103-322, §110105(2). See Effective and Termination Dates of 1994 Amendment note below.

Subsec. (a)(32). Pub. L. 103-322, §110401(a), added par. (32).

1993—Subsec. (a)(29). Pub. L. 103-159 added par. (29).

1990—Subsec. (a)(25) to (27). Pub. L. 101-647, §1702(b)(2), added pars. (25) to (27).

Subsec. (a)(28). Pub. L. 101-647, §2204(a), added par. (28).

1986—Subsec. (a)(10). Pub. L. 99-308, §101(1), substituted "business of manufacturing" for "manufacture of".

Subsec. (a)(11)(A). Pub. L. 99-308, §101(2), struck out "or ammunition" after "firearms".

Subsec. (a)(12). Pub. L. 99-308, §101(3), struck out "or ammunition" after "firearm".

Subsec. (a)(13). Pub. L. 99-308, §101(4), struck out "or ammunition" after "firearms".

Subsec. (a)(17). Pub. L. 99-408 designated existing provisions as subpar. (A) and added subpar. (B).

Subsec. (a)(20). Pub. L. 99-308, §101(5), amended par. (20) generally. Prior to amendment, par. (20) read as follows: "The term 'crime punishable by imprisonment for a term exceeding one year' shall not include (A) any Federal or State offenses pertaining to antitrust violations, unfair trade practices, restraints of trade, or other similar offenses relating to the regulation of

business practices as the Secretary may by regulation designate, or (B) any State offense (other than one involving a firearm or explosive) classified by the laws of the State as a misdemeanor and punishable by a term of imprisonment of two years or less."

Subsec. (a)(21). Pub. L. 99-308, §101(6), added par. (21).

Subsec. (a)(22). Pub. L. 99-360 inserted provision that proof of profit not be required as to a person who engages in the regular and repetitive purchase and disposition of firearms for criminal purposes or terrorism and defined terrorism.

Pub. L. 99-308, §101(6), added par. (22).

Subsec. (a)(23), (24). Pub. L. 99-308, §101(6), added pars. (23) and (24).

1975—Subsec. (a)(4). Pub. L. 93-639 substituted "to use solely for sporting, recreational or cultural purposes" for "to use solely for sporting purposes".

1968—Subsec. (a). Pub. L. 90-618 inserted definitions of "collector", "licensed collector", and "crime punishable by imprisonment for a term exceeding one year", amended definitions of "person", "whoever", "interstate or foreign commerce", "State", "firearm", "destructive device", "dealer", "indictment", "fugitive from justice", "antique firearm", "ammunition", and "published ordinance", and reenacted without change definitions of "shotgun", "short-barreled shotgun", "rifle", "short-barreled rifle", "importer", "licensed importer", "manufacturer", "licensed manufacturer", "licensed dealer", "pawnbroker", and "Secretary" or "Secretary of the Treasury".

Subsec. (b). Pub. L. 90-618 substituted provisions determining that a member of the armed forces on active duty is a resident of the State in which his permanent duty station is located for provisions defining "firearm", "destructive device", and "crime punishable by imprisonment for a term exceeding one year".

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-296 effective 60 days after Nov. 25, 2002, see section 4 of Pub. L. 107-296, set out as an Effective Date note under section 101 of Title 6, Domestic Security.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-277, div. A, §101(b) [title I, §119(e)], Oct. 21, 1998, 112 Stat. 2681-50, 2681-70, provided that: "The amendments made by this section [amending this section and section 923 of this title] shall take effect 180 days after the date of enactment of this Act [Oct. 21, 1998]."

EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104-88 effective Jan. 1, 1996, see section 2 of Pub. L. 104-88, set out as an Effective Date note under section 701 of Title 49, Transportation.

EFFECTIVE AND TERMINATION DATES OF 1994 AMENDMENT

Pub. L. 103-322, title XI, §110105, Sept. 13, 1994, 108 Stat. 2000, provided that subtitle A (§§110101-110106) of title XI of Pub. L. 103-322 (amending this section and sections 922 to 924 of this title and enacting provisions set out as notes under this section) and the amendments made by that subtitle were effective Sept. 13, 1994, and were repealed effective as of the date that is 10 years after that date.

EFFECTIVE DATE OF 1990 AMENDMENT

Section 1702(b)(4) of Pub. L. 101-647 provided that: "The amendments made by this section [amending this section and sections 922 and 924 of this title] shall apply to conduct engaged in after the end of the 60-day period beginning on the date of the enactment of this Act [Nov. 29, 1990]."

EFFECTIVE DATE OF 1986 AMENDMENTS; PUBLICATION AND AVAILABILITY OF COMPILATION OF STATE LAWS AND PUBLISHED ORDINANCES

Section 9 of Pub. L. 99-408 provided that: "The amendments made by this Act [amending this section

and sections 922, 923, and 929 of this title and enacting provisions set out as notes under this section] shall take effect on the date of enactment of this Act [Aug. 28, 1986], except that sections 3, 4, and 5 [amending section 923 of this title] shall take effect on the first day of the first calendar month which begins more than ninety days after the date of the enactment of this Act.”

Section 2 of Pub. L. 99-360 provided that: “This Act and the amendments made by this Act [enacting section 926A of this title, amending this section and section 923 of this title, and repealing former section 926A of this title], intended to amend the Firearms Owners’ Protection Act [Pub. L. 99-308, see Short Title of 1986 Amendment note below], shall become effective on the date on which the section they are intended to amend in such Firearms Owners’ Protection Act becomes effective [see section 110 of Pub. L. 99-308 set out below] and shall apply to the amendments to title 18, United States Code, made by such Act.”

Section 110 of Pub. L. 99-308 provided that:

“(a) IN GENERAL.—The amendments made by this Act [enacting section 926A of this title, amending this section, sections 922 to 926 and 929 of this title, and section 5845 of Title 26, Internal Revenue Code, repealing title VII of Pub. L. 90-351, set out in the Appendix to this title, and enacting provisions set out as notes under this section] shall become effective one hundred and eighty days after the date of the enactment of this Act [May 19, 1986]. Upon their becoming effective, the Secretary shall publish and provide to all licensees a compilation of the State laws and published ordinances of which licensees are presumed to have knowledge pursuant to chapter 44 of title 18, United States Code, as amended by this Act. All amendments to such State laws and published ordinances as contained in the aforementioned compilation shall be published in the Federal Register, revised annually, and furnished to each person licensed under chapter 44 of title 18, United States Code, as amended by this Act.

“(b) PENDING ACTIONS, PETITIONS, AND APPELLATE PROCEEDINGS.—The amendments made by sections 103(6)(B), 105, and 107 of this Act [enacting section 926A of this title and amending sections 923 and 925 of this title] shall be applicable to any action, petition, or appellate proceeding pending on the date of the enactment of this Act [May 19, 1986].

“(c) MACHINEGUN PROHIBITION.—Section 102(9) [amending section 922 of this title] shall take effect on the date of the enactment of this Act [May 19, 1986].”

EFFECTIVE DATE OF 1968 AMENDMENT

Section 105 of Pub. L. 90-618 provided that:

“(a) Except as provided in subsection (b), the provisions of chapter 44 of title 18, United States Code, as amended by section 102 of this title [amending this chapter], shall take effect on December 16, 1968.

“(b) The following sections of chapter 44 of title 18, United States Code, as amended by section 102 of this title shall take effect on the date of the enactment of this title [Oct. 22, 1968]: Sections 921, 922(l), 925(a)(1), and 925(d).”

EFFECTIVE DATE

Section 907 of title IV of Pub. L. 90-351 provided that: “The amendments made by this title [enacting this chapter and provisions set out as notes under this section and repealing sections 901 to 910 of Title 15, Commerce and Trade] shall become effective one hundred and eighty days after the date of its enactment [June 19, 1968]; except that repeal of the Federal Firearms Act [sections 901 to 910 of Title 15] shall not in itself terminate any valid license issued pursuant to that Act and any such license shall be deemed valid until it shall expire according to its terms unless it be sooner revoked or terminated pursuant to applicable provisions of law.”

SHORT TITLE OF 2005 AMENDMENT

Pub. L. 109-92, §5(a), Oct. 26, 2005, 119 Stat. 2099, provided that: “This section [amending sections 922 and

924 of this title and enacting provisions set out as notes under section 922 of this title] may be cited as the ‘Child Safety Lock Act of 2005.’”

SHORT TITLE OF 2004 AMENDMENT

Pub. L. 108-277, §1, July 22, 2004, 118 Stat. 865, provided that: “This Act [enacting sections 926B and 926C of this title] may be cited as the ‘Law Enforcement Officers Safety Act of 2004.’”

SHORT TITLE OF 1994 AMENDMENT

Pub. L. 103-322, title XI, §110101, Sept. 13, 1994, 108 Stat. 1996, provided that subtitle A (§§110101-110106) of title XI of Pub. L. 103-322 (amending this section and sections 922 to 924 of this title and enacting provisions set out as notes under this section) could be cited as the “Public Safety and Recreational Firearms Use Protection Act”, prior to repeal by Pub. L. 103-322, title XI, §110105(2), Sept. 13, 1994, 108 Stat. 2000, effective 10 years after Sept. 13, 1994.

SHORT TITLE OF 1993 AMENDMENT

Section 101 of title I of Pub. L. 103-159 provided that: “This title [enacting section 925A of this title, amending this section, sections 922 and 924 of this title, and section 3759 of Title 42, The Public Health and Welfare, and enacting provisions set out as notes under this section and section 922 of this title] may be cited as the ‘Brady Handgun Violence Prevention Act.’”

Section 301 of title III of Pub. L. 103-159 provided that: “This title [amending sections 922 to 924 of this title] may be cited as the ‘Federal Firearms License Reform Act of 1993.’”

SHORT TITLE OF 1990 AMENDMENT

Section 1702(a) of Pub. L. 101-647 provided that: “This section [amending this section and sections 922 and 924 of this title and enacting provisions set out as notes under this section and section 922 of this title] may be cited as the ‘Gun-Free School Zones Act of 1990.’”

SHORT TITLE OF 1988 AMENDMENT

Pub. L. 100-649, §1, Nov. 10, 1988, 102 Stat. 3816, provided that: “This Act [amending sections 922, 924, and 925 of this title and enacting provisions set out as notes under section 922 of this title and section 1356 of former Title 49, Transportation] may be cited as the ‘Undetectable Firearms Act of 1988.’”

SHORT TITLE OF 1986 AMENDMENTS

Pub. L. 99-570, title I, subtitle I, §1401, Oct. 27, 1986, 100 Stat. 3207-39, provided that: “This subtitle [amending section 924 of this title] may be cited as the ‘Career Criminals Amendment Act of 1986.’”

Section 1(a) of Pub. L. 99-308 provided that: “This Act [enacting section 926A of this title, amending this section, sections 922 to 926 and 929 of this title, and section 5845 of Title 26, Internal Revenue Code, repealing title VII of Pub. L. 90-351, set out in the Appendix to this title, and enacting provisions set out as notes under this section] may be cited as the ‘Firearms Owners’ Protection Act.’”

SHORT TITLE

Section 1 of Pub. L. 90-618 provided: “That this Act [enacting sections 5822, 5871 and 5872 of Title 26, Internal Revenue Code, amending this section, sections 922 to 928 of this title, and Appendix to this title, and sections 5801, 5802, 5811, 5812, 5821, 5841 to 5849, 5851 to 5854, 5861, 6806, and 7273 of Title 26, repealing sections 5692 and 6107 of Title 26, omitting sections 5803, 5813, 5814, 5831, 5855, and 5862 of Title 26, and enacting material set out as notes under this section and Appendix to this title, and section 5801 of Title 26] may be cited as the ‘Gun Control Act of 1968.’”

CONSTRUCTION OF PUB. L. 103-159 WITH SECTION 552a OF TITLE 5

Section 105 of Pub. L. 103-159 provided that: “This Act [enacting section 925A of this title, amending this sec-

tion, sections 922 to 924 of this title, and section 3759 of Title 42, The Public Health and Welfare, and enacting provisions set out as notes under this section and section 922 of this title] and the amendments made by this Act shall not be construed to alter or impair any right or remedy under section 552a of title 5, United States Code.”

STATUTORY CONSTRUCTION; EVIDENCE

For provisions relating to statutory construction of, and admissibility of evidence regarding compliance or noncompliance with, the amendment by section 101(b) [title I, §119(a)] of Pub. L. 105-277, see section 101(b) [title I, §119(d)] of Pub. L. 105-277, set out as a note under section 923 of this title.

STUDY BY ATTORNEY GENERAL

Pub. L. 103-322, title XI, §110104, Sept. 13, 1994, 108 Stat. 2000, which provided that the Attorney General was to study the effect of subtitle A (§§110101-110106) of title XI of Pub. L. 103-322 and to report the results of the study to Congress not later than 30 months after Sept. 13, 1994, was repealed by Pub. L. 103-322, title XI, §110105(2), Sept. 13, 1994, 108 Stat. 2000, effective 10 years after Sept. 13, 1994.

CONGRESSIONAL FINDINGS AND DECLARATION

Section 1(b) of Pub. L. 99-308 provided that: “The Congress finds that—

“(1) the rights of citizens—

“(A) to keep and bear arms under the second amendment to the United States Constitution;

“(B) to security against illegal and unreasonable searches and seizures under the fourth amendment;

“(C) against uncompensated taking of property, double jeopardy, and assurance of due process of law under the fifth amendment; and

“(D) against unconstitutional exercise of authority under the ninth and tenth amendments; require additional legislation to correct existing firearms statutes and enforcement policies; and

“(2) additional legislation is required to reaffirm the intent of the Congress, as expressed in section 101 of the Gun Control Act of 1968 [section 101 of Pub. L. 90-618, set out below], that ‘it is not the purpose of this title to place any undue or unnecessary Federal restrictions or burdens on law-abiding citizens with respect to the acquisition, possession, or use of firearms appropriate to the purpose of hunting, trap-shooting, target shooting, personal protection, or any other lawful activity, and that this title is not intended to discourage or eliminate the private ownership or use of firearms by law-abiding citizens for lawful purposes.’”

Section 101 of title I of Pub. L. 90-618 provided that: “The Congress hereby declares that the purposes of this title [amending this chapter] is to provide support to Federal, State, and local law enforcement officials in their fight against crime and violence, and it is not the purpose of this title to place any undue or unnecessary Federal restrictions or burdens on law-abiding citizens with respect to the acquisition, possession, or use of firearms appropriate to the purpose of hunting, trap-shooting, target shooting, personal protection, or any other lawful activity, and that this title is not intended to discourage or eliminate the private ownership or use of firearms by law-abiding citizens for lawful purposes, or provide for the imposition by Federal regulations of any procedures or requirements other than those reasonably necessary to implement and effectuate the provisions of this title.”

Section 901 of title IV of Pub. L. 90-351 provided that:

“(a) The Congress hereby finds and declares—

“(1) that there is a widespread traffic in firearms moving in or otherwise affecting interstate or foreign commerce, and that the existing Federal controls over such traffic do not adequately enable the States to control this traffic within their own borders through the exercise of their police power;

“(2) that the ease with which any person can acquire firearms other than a rifle or shotgun (including criminals, juveniles without the knowledge or consent of their parents or guardians, narcotics addicts, mental defectives, armed groups who would supplant the functions of duly constituted public authorities, and others whose possession of such weapon is similarly contrary to the public interest) is a significant factor in the prevalence of lawlessness and violent crime in the United States;

“(3) that only through adequate Federal control over interstate and foreign commerce in these weapons, and over all persons engaging in the businesses of importing, manufacturing, or dealing in them, can this grave problem be properly dealt with, and effective State and local regulation of this traffic be made possible;

“(4) that the acquisition on a mail-order basis of firearms other than a rifle or shotgun by nonlicensed individuals, from a place other than their State of residence, has materially tended to thwart the effectiveness of State laws and regulations, and local ordinances;

“(5) that the sale or other disposition of concealable weapons by importers, manufacturers, and dealers holding Federal licenses, to nonresidents of the State in which the licensees’ places of business are located, has tended to make ineffective the laws, regulations, and ordinances in the several States and local jurisdictions regarding such firearms;

“(6) that there is a casual relationship between the easy availability of firearms other than a rifle or shotgun and juvenile and youthful criminal behavior, and that such firearms have been widely sold by federally licensed importers and dealers to emotionally immature, or thrill-bent juveniles and minors prone to criminal behavior;

“(7) that the United States has become the dumping ground of the castoff surplus military weapons of other nations, and that such weapons, and the large volume of relatively inexpensive pistols and revolvers (largely worthless for sporting purposes), imported into the United States in recent years, has contributed greatly to lawlessness and to the Nation’s law enforcement problems;

“(8) that the lack of adequate Federal control over interstate and foreign commerce in highly destructive weapons (such as bazookas, mortars, antitank guns, and so forth, and destructive devices such as explosive or incendiary grenades, bombs, missiles, and so forth) has allowed such weapons and devices to fall into the hands of lawless persons, including armed groups who would supplant lawful authority, thus creating a problem of national concern;

“(9) that the existing licensing system under the Federal Firearms Act [former sections 901 to 910 of Title 15, Commerce and Trade] does not provide adequate license fees or proper standards for the granting or denial of licenses, and that this has led to licenses being issued to persons not reasonably entitled thereto, thus distorting the purposes of the licensing system.

“(b) The Congress further hereby declares that the purpose of this title [enacting this chapter and repealing sections 901 to 910 of Title 15, Commerce and Trade] is to cope with the conditions referred to in the foregoing subsection, and that it is not the purpose of this title [enacting this chapter and repealing sections 901 to 910 of Title 15] to place any undue or unnecessary Federal restrictions or burdens on law-abiding citizens with respect to the acquisition, possession, or use of firearms appropriate to the purpose of hunting, trap shooting, target shooting, personal protection, or any other lawful activity, and that this title [enacting this chapter and repealing sections 901 to 910 of Title 15] is not intended to discourage or eliminate the private ownership or use of firearms by law-abiding citizens for lawful purposes, or provide for the imposition by Federal regulations of any procedures or requirements other than those reasonably necessary to implement

and effectuate the provisions of this title [enacting this chapter and repealing sections 901 to 910 of Title 15].”

ADMINISTRATION AND ENFORCEMENT

Section 103 of title I of Pub. L. 90-618, as amended by Pub. L. 107-296, title XI, §1112(s), Nov. 25, 2002, 116 Stat. 2279, provided that: “The administration and enforcement of the amendment made by this title [amending this chapter] shall be vested in the Attorney General.”

Section 903 of title IV of Pub. L. 90-351 provided that: “The administration and enforcement of the amendment made by this title [enacting this chapter and provisions set out as notes under this section] shall be vested in the Secretary of the Treasury [now Attorney General].”

MODIFICATION OF OTHER LAWS

Section 104 of title I of Pub. L. 90-618, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that: “Nothing in this title or the amendment made thereby [amending this chapter] shall be construed as modifying or affecting any provision of—

“(a) the National Firearms Act (chapter 53 of the Internal Revenue Code of 1986) [section 5801 et seq. of Title 26, Internal Revenue Code];

“(b) section 414 of the Mutual Security Act of 1954 (22 U.S.C. 1934), as amended, relating to munitions control; or

“(c) section 1715 of title 18, United States Code, relating to nonmailable firearms.”

Section 904 of title IV of Pub. L. 90-351, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that: “Nothing in this title or amendment made thereby [enacting this chapter and provisions set out as notes under this section] shall be construed as modifying or affecting any provision of—

“(a) the National Firearms Act (chapter 53 of the Internal Revenue Code of 1986) [section 5801 et seq. of Title 26, Internal Revenue Code]; or

“(b) section 414 of the Mutual Security Act of 1954 (22 U.S.C. 1934), as amended, relating to munitions control; or

“(c) section 1715 of title 18, United States Code, relating to nonmailable firearms.”

DEFINITION OF “HANDGUN”

Section 10 of Pub. L. 99-408 provided that: “For purposes of section 921(a)(17)(B) of title 18, United States Code, as added by the first section of this Act, ‘handgun’ means any firearm including a pistol or revolver designed to be fired by the use of a single hand. The term also includes any combination of parts from which a handgun can be assembled.”

§ 922. Unlawful acts

(a) It shall be unlawful—

(1) for any person—

(A) except a licensed importer, licensed manufacturer, or licensed dealer, to engage in the business of importing, manufacturing, or dealing in firearms, or in the course of such business to ship, transport, or receive any firearm in interstate or foreign commerce; or

(B) except a licensed importer or licensed manufacturer, to engage in the business of importing or manufacturing ammunition, or in the course of such business, to ship, transport, or receive any ammunition in interstate or foreign commerce;

(2) for any importer, manufacturer, dealer, or collector licensed under the provisions of this chapter to ship or transport in interstate or foreign commerce any firearm to any person other than a licensed importer, licensed

manufacturer, licensed dealer, or licensed collector, except that—

(A) this paragraph and subsection (b)(3) shall not be held to preclude a licensed importer, licensed manufacturer, licensed dealer, or licensed collector from returning a firearm or replacement firearm of the same kind and type to a person from whom it was received; and this paragraph shall not be held to preclude an individual from mailing a firearm owned in compliance with Federal, State, and local law to a licensed importer, licensed manufacturer, licensed dealer, or licensed collector;

(B) this paragraph shall not be held to preclude a licensed importer, licensed manufacturer, or licensed dealer from depositing a firearm for conveyance in the mails to any officer, employee, agent, or watchman who, pursuant to the provisions of section 1715 of this title, is eligible to receive through the mails pistols, revolvers, and other firearms capable of being concealed on the person, for use in connection with his official duty; and

(C) nothing in this paragraph shall be construed as applying in any manner in the District of Columbia, the Commonwealth of Puerto Rico, or any possession of the United States differently than it would apply if the District of Columbia, the Commonwealth of Puerto Rico, or the possession were in fact a State of the United States;

(3) for any person, other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector to transport into or receive in the State where he resides (or if the person is a corporation or other business entity, the State where it maintains a place of business) any firearm purchased or otherwise obtained by such person outside that State, except that this paragraph (A) shall not preclude any person who lawfully acquires a firearm by bequest or intestate succession in a State other than his State of residence from transporting the firearm into or receiving it in that State, if it is lawful for such person to purchase or possess such firearm in that State, (B) shall not apply to the transportation or receipt of a firearm obtained in conformity with subsection (b)(3) of this section, and (C) shall not apply to the transportation of any firearm acquired in any State prior to the effective date of this chapter;

(4) for any person, other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, to transport in interstate or foreign commerce any destructive device, machinegun (as defined in section 5845 of the Internal Revenue Code of 1986), short-barreled shotgun, or short-barreled rifle, except as specifically authorized by the Attorney General consistent with public safety and necessity;

(5) for any person (other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector) to transfer, sell, trade, give, transport, or deliver any firearm to any person (other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector) who the transferor knows or has reasonable cause to believe does not reside

in (or if the person is a corporation or other business entity, does not maintain a place of business in) the State in which the transferor resides; except that this paragraph shall not apply to (A) the transfer, transportation, or delivery of a firearm made to carry out a bequest of a firearm to, or an acquisition by intestate succession of a firearm by, a person who is permitted to acquire or possess a firearm under the laws of the State of his residence, and (B) the loan or rental of a firearm to any person for temporary use for lawful sporting purposes;

(6) for any person in connection with the acquisition or attempted acquisition of any firearm or ammunition from a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, knowingly to make any false or fictitious oral or written statement or to furnish or exhibit any false, fictitious, or misrepresented identification, intended or likely to deceive such importer, manufacturer, dealer, or collector with respect to any fact material to the lawfulness of the sale or other disposition of such firearm or ammunition under the provisions of this chapter;

(7) for any person to manufacture or import armor piercing ammunition, unless—

(A) the manufacture of such ammunition is for the use of the United States, any department or agency of the United States, any State, or any department, agency, or political subdivision of a State;

(B) the manufacture of such ammunition is for the purpose of exportation; or

(C) the manufacture or importation of such ammunition is for the purpose of testing or experimentation and has been authorized by the Attorney General;

(8) for any manufacturer or importer to sell or deliver armor piercing ammunition, unless such sale or delivery—

(A) is for the use of the United States, any department or agency of the United States, any State, or any department, agency, or political subdivision of a State;

(B) is for the purpose of exportation; or

(C) is for the purpose of testing or experimentation and has been authorized by the Attorney General;¹

(9) for any person, other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, who does not reside in any State to receive any firearms unless such receipt is for lawful sporting purposes.

(b) It shall be unlawful for any licensed importer, licensed manufacturer, licensed dealer, or licensed collector to sell or deliver—

(1) any firearm or ammunition to any individual who the licensee knows or has reasonable cause to believe is less than eighteen years of age, and, if the firearm, or ammunition is other than a shotgun or rifle, or ammunition for a shotgun or rifle, to any individual who the licensee knows or has reasonable cause to believe is less than twenty-one years of age;

(2) any firearm to any person in any State where the purchase or possession by such per-

son of such firearm would be in violation of any State law or any published ordinance applicable at the place of sale, delivery or other disposition, unless the licensee knows or has reasonable cause to believe that the purchase or possession would not be in violation of such State law or such published ordinance;

(3) any firearm to any person who the licensee knows or has reasonable cause to believe does not reside in (or if the person is a corporation or other business entity, does not maintain a place of business in) the State in which the licensee's place of business is located, except that this paragraph (A) shall not apply to the sale or delivery of any rifle or shotgun to a resident of a State other than a State in which the licensee's place of business is located if the transferee meets in person with the transferor to accomplish the transfer, and the sale, delivery, and receipt fully comply with the legal conditions of sale in both such States (and any licensed manufacturer, importer or dealer shall be presumed, for purposes of this subparagraph, in the absence of evidence to the contrary, to have had actual knowledge of the State laws and published ordinances of both States), and (B) shall not apply to the loan or rental of a firearm to any person for temporary use for lawful sporting purposes;

(4) to any person any destructive device, machinegun (as defined in section 5845 of the Internal Revenue Code of 1986), short-barreled shotgun, or short-barreled rifle, except as specifically authorized by the Attorney General consistent with public safety and necessity; and

(5) any firearm or armor-piercing ammunition to any person unless the licensee notes in his records, required to be kept pursuant to section 923 of this chapter, the name, age, and place of residence of such person if the person is an individual, or the identity and principal and local places of business of such person if the person is a corporation or other business entity.

Paragraphs (1), (2), (3), and (4) of this subsection shall not apply to transactions between licensed importers, licensed manufacturers, licensed dealers, and licensed collectors. Paragraph (4) of this subsection shall not apply to a sale or delivery to any research organization designated by the Attorney General.

(c) In any case not otherwise prohibited by this chapter, a licensed importer, licensed manufacturer, or licensed dealer may sell a firearm to a person who does not appear in person at the licensee's business premises (other than another licensed importer, manufacturer, or dealer) only if—

(1) the transferee submits to the transferor a sworn statement in the following form:

"Subject to penalties provided by law, I swear that, in the case of any firearm other than a shotgun or a rifle, I am twenty-one years or more of age, or that, in the case of a shotgun or a rifle, I am eighteen years or more of age; that I am not prohibited by the provisions of chapter 44 of title 18, United States Code, from receiving a firearm in interstate or foreign commerce; and that my

¹ So in original. Probably should be followed with "and".

receipt of this firearm will not be in violation of any statute of the State and published ordinance applicable to the locality in which I reside. Further, the true title, name, and address of the principal law enforcement officer of the locality to which the firearm will be delivered are _____

Signature _____ Date _____."

and containing blank spaces for the attachment of a true copy of any permit or other information required pursuant to such statute or published ordinance;

(2) the transferor has, prior to the shipment or delivery of the firearm, forwarded by registered or certified mail (return receipt requested) a copy of the sworn statement, together with a description of the firearm, in a form prescribed by the Attorney General, to the chief law enforcement officer of the transferee's place of residence, and has received a return receipt evidencing delivery of the statement or has had the statement returned due to the refusal of the named addressee to accept such letter in accordance with United States Post Office Department regulations; and

(3) the transferor has delayed shipment or delivery for a period of at least seven days following receipt of the notification of the acceptance or refusal of delivery of the statement.

A copy of the sworn statement and a copy of the notification to the local law enforcement officer, together with evidence of receipt or rejection of that notification shall be retained by the licensee as a part of the records required to be kept under section 923(g).

(d) It shall be unlawful for any person to sell or otherwise dispose of any firearm or ammunition to any person knowing or having reasonable cause to believe that such person—

(1) is under indictment for, or has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year;

(2) is a fugitive from justice;

(3) is an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));

(4) has been adjudicated as a mental defective or has been committed to any mental institution;

(5) who, being an alien—

(A) is illegally or unlawfully in the United States; or

(B) except as provided in subsection (y)(2), has been admitted to the United States under a nonimmigrant visa (as that term is defined in section 101(a)(26) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(26)));

(6) who² has been discharged from the Armed Forces under dishonorable conditions;

(7) who, having been a citizen of the United States, has renounced his citizenship;

(8) is subject to a court order that restrains such person from harassing, stalking, or threatening an intimate partner of such per-

son or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child, except that this paragraph shall only apply to a court order that—

(A) was issued after a hearing of which such person received actual notice, and at which such person had the opportunity to participate; and

(B)(i) includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child; or

(ii) by its terms explicitly prohibits the use, attempted use, or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury; or

(9) has been convicted in any court of a misdemeanor crime of domestic violence.

This subsection shall not apply with respect to the sale or disposition of a firearm or ammunition to a licensed importer, licensed manufacturer, licensed dealer, or licensed collector who pursuant to subsection (b) of section 925 of this chapter is not precluded from dealing in firearms or ammunition, or to a person who has been granted relief from disabilities pursuant to subsection (c) of section 925 of this chapter.

(e) It shall be unlawful for any person knowingly to deliver or cause to be delivered to any common or contract carrier for transportation or shipment in interstate or foreign commerce, to persons other than licensed importers, licensed manufacturers, licensed dealers, or licensed collectors, any package or other container in which there is any firearm or ammunition without written notice to the carrier that such firearm or ammunition is being transported or shipped; except that any passenger who owns or legally possesses a firearm or ammunition being transported aboard any common or contract carrier for movement with the passenger in interstate or foreign commerce may deliver said firearm or ammunition into the custody of the pilot, captain, conductor or operator of such common or contract carrier for the duration of the trip without violating any of the provisions of this chapter. No common or contract carrier shall require or cause any label, tag, or other written notice to be placed on the outside of any package, luggage, or other container that such package, luggage, or other container contains a firearm.

(f)(1) It shall be unlawful for any common or contract carrier to transport or deliver in interstate or foreign commerce any firearm or ammunition with knowledge or reasonable cause to believe that the shipment, transportation, or receipt thereof would be in violation of the provisions of this chapter.

(2) It shall be unlawful for any common or contract carrier to deliver in interstate or foreign commerce any firearm without obtaining written acknowledgement of receipt from the recipient of the package or other container in which there is a firearm.

(g) It shall be unlawful for any person—

(1) who has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year;

² So in original. The word "who" probably should not appear.

(2) who is a fugitive from justice;
 (3) who is an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));

(4) who has been adjudicated as a mental defective or who has been committed to a mental institution;

(5) who, being an alien—

(A) is illegally or unlawfully in the United States; or

(B) except as provided in subsection (y)(2), has been admitted to the United States under a nonimmigrant visa (as that term is defined in section 101(a)(26) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(26)));

(6) who has been discharged from the Armed Forces under dishonorable conditions;

(7) who, having been a citizen of the United States, has renounced his citizenship;

(8) who is subject to a court order that—

(A) was issued after a hearing of which such person received actual notice, and at which such person had an opportunity to participate;

(B) restrains such person from harassing, stalking, or threatening an intimate partner of such person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child; and

(C)(i) includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child; or

(ii) by its terms explicitly prohibits the use, attempted use, or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury; or

(9) who has been convicted in any court of a misdemeanor crime of domestic violence,

to ship or transport in interstate or foreign commerce, or possess in or affecting commerce, any firearm or ammunition; or to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.

(h) It shall be unlawful for any individual, who to that individual's knowledge and while being employed for any person described in any paragraph of subsection (g) of this section, in the course of such employment—

(1) to receive, possess, or transport any firearm or ammunition in or affecting interstate or foreign commerce; or

(2) to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.

(i) It shall be unlawful for any person to transport or ship in interstate or foreign commerce, any stolen firearm or stolen ammunition, knowing or having reasonable cause to believe that the firearm or ammunition was stolen.

(j) It shall be unlawful for any person to receive, possess, conceal, store, barter, sell, or dispose of any stolen firearm or stolen ammunition, or pledge or accept as security for a loan any stolen firearm or stolen ammunition, which

is moving as, which is a part of, which constitutes, or which has been shipped or transported in, interstate or foreign commerce, either before or after it was stolen, knowing or having reasonable cause to believe that the firearm or ammunition was stolen.

(k) It shall be unlawful for any person knowingly to transport, ship, or receive, in interstate or foreign commerce, any firearm which has had the importer's or manufacturer's serial number removed, obliterated, or altered or to possess or receive any firearm which has had the importer's or manufacturer's serial number removed, obliterated, or altered and has, at any time, been shipped or transported in interstate or foreign commerce.

(l) Except as provided in section 925(d) of this chapter, it shall be unlawful for any person knowingly to import or bring into the United States or any possession thereof any firearm or ammunition; and it shall be unlawful for any person knowingly to receive any firearm or ammunition which has been imported or brought into the United States or any possession thereof in violation of the provisions of this chapter.

(m) It shall be unlawful for any licensed importer, licensed manufacturer, licensed dealer, or licensed collector knowingly to make any false entry in, to fail to make appropriate entry in, or to fail to properly maintain, any record which he is required to keep pursuant to section 923 of this chapter or regulations promulgated thereunder.

(n) It shall be unlawful for any person who is under indictment for a crime punishable by imprisonment for a term exceeding one year to ship or transport in interstate or foreign commerce any firearm or ammunition or receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.

(o)(1) Except as provided in paragraph (2), it shall be unlawful for any person to transfer or possess a machinegun.

(2) This subsection does not apply with respect to—

(A) a transfer to or by, or possession by or under the authority of, the United States or any department or agency thereof or a State, or a department, agency, or political subdivision thereof; or

(B) any lawful transfer or lawful possession of a machinegun that was lawfully possessed before the date this subsection takes effect.

(p)(1) It shall be unlawful for any person to manufacture, import, sell, ship, deliver, possess, transfer, or receive any firearm—

(A) that, after removal of grips, stocks, and magazines, is not as detectable as the Security Exemplar, by walk-through metal detectors calibrated and operated to detect the Security Exemplar; or

(B) any major component of which, when subjected to inspection by the types of x-ray machines commonly used at airports, does not generate an image that accurately depicts the shape of the component. Barium sulfate or other compounds may be used in the fabrication of the component.

(2) For purposes of this subsection—

(A) the term “firearm” does not include the frame or receiver of any such weapon;

(B) the term “major component” means, with respect to a firearm, the barrel, the slide or cylinder, or the frame or receiver of the firearm; and

(C) the term “Security Exemplar” means an object, to be fabricated at the direction of the Attorney General, that is—

(i) constructed of, during the 12-month period beginning on the date of the enactment of this subsection, 3.7 ounces of material type 17-4 PH stainless steel in a shape resembling a handgun; and

(ii) suitable for testing and calibrating metal detectors:

Provided, however, That at the close of such 12-month period, and at appropriate times thereafter the Attorney General shall promulgate regulations to permit the manufacture, importation, sale, shipment, delivery, possession, transfer, or receipt of firearms previously prohibited under this subparagraph that are as detectable as a “Security Exemplar” which contains 3.7 ounces of material type 17-4 PH stainless steel, in a shape resembling a handgun, or such lesser amount as is detectable in view of advances in state-of-the-art developments in weapons detection technology.

(3) Under such rules and regulations as the Attorney General shall prescribe, this subsection shall not apply to the manufacture, possession, transfer, receipt, shipment, or delivery of a firearm by a licensed manufacturer or any person acting pursuant to a contract with a licensed manufacturer, for the purpose of examining and testing such firearm to determine whether paragraph (1) applies to such firearm. The Attorney General shall ensure that rules and regulations adopted pursuant to this paragraph do not impair the manufacture of prototype firearms or the development of new technology.

(4) The Attorney General shall permit the conditional importation of a firearm by a licensed importer or licensed manufacturer, for examination and testing to determine whether or not the unconditional importation of such firearm would violate this subsection.

(5) This subsection shall not apply to any firearm which—

(A) has been certified by the Secretary of Defense or the Director of Central Intelligence, after consultation with the Attorney General and the Administrator of the Federal Aviation Administration, as necessary for military or intelligence applications; and

(B) is manufactured for and sold exclusively to military or intelligence agencies of the United States.

(6) This subsection shall not apply with respect to any firearm manufactured in, imported into, or possessed in the United States before the date of the enactment of the Undetectable Firearms Act of 1988.

(q)(1) The Congress finds and declares that—

(A) crime, particularly crime involving drugs and guns, is a pervasive, nationwide problem;

(B) crime at the local level is exacerbated by the interstate movement of drugs, guns, and criminal gangs;

(C) firearms and ammunition move easily in interstate commerce and have been found in increasing numbers in and around schools, as documented in numerous hearings in both the Committee on the Judiciary³ the House of Representatives and the Committee on the Judiciary of the Senate;

(D) in fact, even before the sale of a firearm, the gun, its component parts, ammunition, and the raw materials from which they are made have considerably moved in interstate commerce;

(E) while criminals freely move from State to State, ordinary citizens and foreign visitors may fear to travel to or through certain parts of the country due to concern about violent crime and gun violence, and parents may decline to send their children to school for the same reason;

(F) the occurrence of violent crime in school zones has resulted in a decline in the quality of education in our country;

(G) this decline in the quality of education has an adverse impact on interstate commerce and the foreign commerce of the United States;

(H) States, localities, and school systems find it almost impossible to handle gun-related crime by themselves—even States, localities, and school systems that have made strong efforts to prevent, detect, and punish gun-related crime find their efforts unavailing due in part to the failure or inability of other States or localities to take strong measures; and

(I) the Congress has the power, under the interstate commerce clause and other provisions of the Constitution, to enact measures to ensure the integrity and safety of the Nation's schools by enactment of this subsection.

(2)(A) It shall be unlawful for any individual knowingly to possess a firearm that has moved in or that otherwise affects interstate or foreign commerce at a place that the individual knows, or has reasonable cause to believe, is a school zone.

(B) Subparagraph (A) does not apply to the possession of a firearm—

(i) on private property not part of school grounds;

(ii) if the individual possessing the firearm is licensed to do so by the State in which the school zone is located or a political subdivision of the State, and the law of the State or political subdivision requires that, before an individual obtains such a license, the law enforcement authorities of the State or political subdivision verify that the individual is qualified under law to receive the license;

(iii) that is—

(I) not loaded; and

(II) in a locked container, or a locked firearms rack that is on a motor vehicle;

(iv) by an individual for use in a program approved by a school in the school zone;

(v) by an individual in accordance with a contract entered into between a school in the school zone and the individual or an employer of the individual;

³ So in original. Probably should be followed by “of”.

(vi) by a law enforcement officer acting in his or her official capacity; or

(vii) that is unloaded and is possessed by an individual while traversing school premises for the purpose of gaining access to public or private lands open to hunting, if the entry on school premises is authorized by school authorities.

(3)(A) Except as provided in subparagraph (B), it shall be unlawful for any person, knowingly or with reckless disregard for the safety of another, to discharge or attempt to discharge a firearm that has moved in or that otherwise affects interstate or foreign commerce at a place that the person knows is a school zone.

(B) Subparagraph (A) does not apply to the discharge of a firearm—

(i) on private property not part of school grounds;

(ii) as part of a program approved by a school in the school zone, by an individual who is participating in the program;

(iii) by an individual in accordance with a contract entered into between a school in a school zone and the individual or an employer of the individual; or

(iv) by a law enforcement officer acting in his or her official capacity.

(4) Nothing in this subsection shall be construed as preempting or preventing a State or local government from enacting a statute establishing gun free school zones as provided in this subsection.

(r) It shall be unlawful for any person to assemble from imported parts any semiautomatic rifle or any shotgun which is identical to any rifle or shotgun prohibited from importation under section 925(d)(3) of this chapter as not being particularly suitable for or readily adaptable to sporting purposes except that this subsection shall not apply to—

(1) the assembly of any such rifle or shotgun for sale or distribution by a licensed manufacturer to the United States or any department or agency thereof or to any State or any department, agency, or political subdivision thereof; or

(2) the assembly of any such rifle or shotgun for the purposes of testing or experimentation authorized by the Attorney General.

(s)(1) Beginning on the date that is 90 days after the date of enactment of this subsection and ending on the day before the date that is 60 months after such date of enactment, it shall be unlawful for any licensed importer, licensed manufacturer, or licensed dealer to sell, deliver, or transfer a handgun (other than the return of a handgun to the person from whom it was received) to an individual who is not licensed under section 923, unless—

(A) after the most recent proposal of such transfer by the transferee—

(i) the transferor has—

(I) received from the transferee a statement of the transferee containing the information described in paragraph (3);

(II) verified the identity of the transferee by examining the identification document presented;

(III) within 1 day after the transferee furnishes the statement, provided notice of

the contents of the statement to the chief law enforcement officer of the place of residence of the transferee; and

(IV) within 1 day after the transferee furnishes the statement, transmitted a copy of the statement to the chief law enforcement officer of the place of residence of the transferee; and

(ii)(I) 5 business days (meaning days on which State offices are open) have elapsed from the date the transferor furnished notice of the contents of the statement to the chief law enforcement officer, during which period the transferor has not received information from the chief law enforcement officer that receipt or possession of the handgun by the transferee would be in violation of Federal, State, or local law; or

(II) the transferor has received notice from the chief law enforcement officer that the officer has no information indicating that receipt or possession of the handgun by the transferee would violate Federal, State, or local law;

(B) the transferee has presented to the transferor a written statement, issued by the chief law enforcement officer of the place of residence of the transferee during the 10-day period ending on the date of the most recent proposal of such transfer by the transferee, stating that the transferee requires access to a handgun because of a threat to the life of the transferee or of any member of the household of the transferee;

(C)(i) the transferee has presented to the transferor a permit that—

(I) allows the transferee to possess or acquire a handgun; and

(II) was issued not more than 5 years earlier by the State in which the transfer is to take place; and

(ii) the law of the State provides that such a permit is to be issued only after an authorized government official has verified that the information available to such official does not indicate that possession of a handgun by the transferee would be in violation of the law;

(D) the law of the State requires that, before any licensed importer, licensed manufacturer, or licensed dealer completes the transfer of a handgun to an individual who is not licensed under section 923, an authorized government official verify that the information available to such official does not indicate that possession of a handgun by the transferee would be in violation of law;

(E) the Attorney General has approved the transfer under section 5812 of the Internal Revenue Code of 1986; or

(F) on application of the transferor, the Attorney General has certified that compliance with subparagraph (A)(i)(III) is impracticable because—

(i) the ratio of the number of law enforcement officers of the State in which the transfer is to occur to the number of square miles of land area of the State does not exceed 0.0025;

(ii) the business premises of the transferor at which the transfer is to occur are ex-

tremely remote in relation to the chief law enforcement officer; and

(iii) there is an absence of telecommunications facilities in the geographical area in which the business premises are located.

(2) A chief law enforcement officer to whom a transferor has provided notice pursuant to paragraph (1)(A)(i)(III) shall make a reasonable effort to ascertain within 5 business days whether receipt or possession would be in violation of the law, including research in whatever State and local recordkeeping systems are available and in a national system designated by the Attorney General.

(3) The statement referred to in paragraph (1)(A)(i)(I) shall contain only—

(A) the name, address, and date of birth appearing on a valid identification document (as defined in section 1028(d)(1)⁴) of the transferee containing a photograph of the transferee and a description of the identification used;

(B) a statement that the transferee—

(i) is not under indictment for, and has not been convicted in any court of, a crime punishable by imprisonment for a term exceeding 1 year, and has not been convicted in any court of a misdemeanor crime of domestic violence;

(ii) is not a fugitive from justice;

(iii) is not an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act);

(iv) has not been adjudicated as a mental defective or been committed to a mental institution;

(v) is not an alien who—

(I) is illegally or unlawfully in the United States; or

(II) subject to subsection (y)(2), has been admitted to the United States under a nonimmigrant visa (as that term is defined in section 101(a)(26) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(26)));

(vi) has not been discharged from the Armed Forces under dishonorable conditions; and

(vii) is not a person who, having been a citizen of the United States, has renounced such citizenship;

(C) the date the statement is made; and

(D) notice that the transferee intends to obtain a handgun from the transferor.

(4) Any transferor of a handgun who, after such transfer, receives a report from a chief law enforcement officer containing information that receipt or possession of the handgun by the transferee violates Federal, State, or local law shall, within 1 business day after receipt of such request, communicate any information related to the transfer that the transferor has about the transfer and the transferee to—

(A) the chief law enforcement officer of the place of business of the transferor; and

(B) the chief law enforcement officer of the place of residence of the transferee.

(5) Any transferor who receives information, not otherwise available to the public, in a report

under this subsection shall not disclose such information except to the transferee, to law enforcement authorities, or pursuant to the direction of a court of law.

(6)(A) Any transferor who sells, delivers, or otherwise transfers a handgun to a transferee shall retain the copy of the statement of the transferee with respect to the handgun transaction, and shall retain evidence that the transferor has complied with subclauses (III) and (IV) of paragraph (1)(A)(i) with respect to the statement.

(B) Unless the chief law enforcement officer to whom a statement is transmitted under paragraph (1)(A)(i)(IV) determines that a transaction would violate Federal, State, or local law—

(i) the officer shall, within 20 business days after the date the transferee made the statement on the basis of which the notice was provided, destroy the statement, any record containing information derived from the statement, and any record created as a result of the notice required by paragraph (1)(A)(i)(III);

(ii) the information contained in the statement shall not be conveyed to any person except a person who has a need to know in order to carry out this subsection; and

(iii) the information contained in the statement shall not be used for any purpose other than to carry out this subsection.

(C) If a chief law enforcement officer determines that an individual is ineligible to receive a handgun and the individual requests the officer to provide the reason for such determination, the officer shall provide such reasons to the individual in writing within 20 business days after receipt of the request.

(7) A chief law enforcement officer or other person responsible for providing criminal history background information pursuant to this subsection shall not be liable in an action at law for damages—

(A) for failure to prevent the sale or transfer of a handgun to a person whose receipt or possession of the handgun is unlawful under this section; or

(B) for preventing such a sale or transfer to a person who may lawfully receive or possess a handgun.

(8) For purposes of this subsection, the term “chief law enforcement officer” means the chief of police, the sheriff, or an equivalent officer or the designee of any such individual.

(9) The Attorney General shall take necessary actions to ensure that the provisions of this subsection are published and disseminated to licensed dealers, law enforcement officials, and the public.

(t)(1) Beginning on the date that is 30 days after the Attorney General notifies licensees under section 103(d) of the Brady Handgun Violence Prevention Act that the national instant criminal background check system is established, a licensed importer, licensed manufacturer, or licensed dealer shall not transfer a firearm to any other person who is not licensed under this chapter, unless—

(A) before the completion of the transfer, the licensee contacts the national instant criminal background check system established under section 103 of that Act;

⁴ See References in Text note below.

(B)(i) the system provides the licensee with a unique identification number; or

(ii) 3 business days (meaning a day on which State offices are open) have elapsed since the licensee contacted the system, and the system has not notified the licensee that the receipt of a firearm by such other person would violate subsection (g) or (n) of this section; and

(C) the transferor has verified the identity of the transferee by examining a valid identification document (as defined in section 1028(d) of this title) of the transferee containing a photograph of the transferee.

(2) If receipt of a firearm would not violate subsection (g) or (n) or State law, the system shall—

(A) assign a unique identification number to the transfer;

(B) provide the licensee with the number; and

(C) destroy all records of the system with respect to the call (other than the identifying number and the date the number was assigned) and all records of the system relating to the person or the transfer.

(3) Paragraph (1) shall not apply to a firearm transfer between a licensee and another person if—

(A)(i) such other person has presented to the licensee a permit that—

(I) allows such other person to possess or acquire a firearm; and

(II) was issued not more than 5 years earlier by the State in which the transfer is to take place; and

(ii) the law of the State provides that such a permit is to be issued only after an authorized government official has verified that the information available to such official does not indicate that possession of a firearm by such other person would be in violation of law;

(B) the Attorney General has approved the transfer under section 5812 of the Internal Revenue Code of 1986; or

(C) on application of the transferor, the Attorney General has certified that compliance with paragraph (1)(A) is impracticable because—

(i) the ratio of the number of law enforcement officers of the State in which the transfer is to occur to the number of square miles of land area of the State does not exceed 0.0025;

(ii) the business premises of the licensee at which the transfer is to occur are extremely remote in relation to the chief law enforcement officer (as defined in subsection (s)(8)); and

(iii) there is an absence of telecommunications facilities in the geographical area in which the business premises are located.

(4) If the national instant criminal background check system notifies the licensee that the information available to the system does not demonstrate that the receipt of a firearm by such other person would violate subsection (g) or (n) or State law, and the licensee transfers a firearm to such other person, the licensee shall include in the record of the transfer the unique

identification number provided by the system with respect to the transfer.

(5) If the licensee knowingly transfers a firearm to such other person and knowingly fails to comply with paragraph (1) of this subsection with respect to the transfer and, at the time such other person most recently proposed the transfer, the national instant criminal background check system was operating and information was available to the system demonstrating that receipt of a firearm by such other person would violate subsection (g) or (n) of this section or State law, the Attorney General may, after notice and opportunity for a hearing, suspend for not more than 6 months or revoke any license issued to the licensee under section 923, and may impose on the licensee a civil fine of not more than \$5,000.

(6) Neither a local government nor an employee of the Federal Government or of any State or local government, responsible for providing information to the national instant criminal background check system shall be liable in an action at law for damages—

(A) for failure to prevent the sale or transfer of a firearm to a person whose receipt or possession of the firearm is unlawful under this section; or

(B) for preventing such a sale or transfer to a person who may lawfully receive or possess a firearm.

(u) It shall be unlawful for a person to steal or unlawfully take or carry away from the person or the premises of a person who is licensed to engage in the business of importing, manufacturing, or dealing in firearms, any firearm in the licensee's business inventory that has been shipped or transported in interstate or foreign commerce.

[(v), (w) Repealed. Pub. L. 103-322, title XI, §110105(2), Sept. 13, 1994, 108 Stat. 2000.]

(x)(1) It shall be unlawful for a person to sell, deliver, or otherwise transfer to a person who the transferor knows or has reasonable cause to believe is a juvenile—

(A) a handgun; or

(B) ammunition that is suitable for use only in a handgun.

(2) It shall be unlawful for any person who is a juvenile to knowingly possess—

(A) a handgun; or

(B) ammunition that is suitable for use only in a handgun.

(3) This subsection does not apply to—

(A) a temporary transfer of a handgun or ammunition to a juvenile or to the possession or use of a handgun or ammunition by a juvenile if the handgun and ammunition are possessed and used by the juvenile—

(i) in the course of employment, in the course of ranching or farming related to activities at the residence of the juvenile (or on property used for ranching or farming at which the juvenile, with the permission of the property owner or lessee, is performing activities related to the operation of the farm or ranch), target practice, hunting, or a course of instruction in the safe and lawful use of a handgun;

(ii) with the prior written consent of the juvenile's parent or guardian who is not pro-

hibited by Federal, State, or local law from possessing a firearm, except—

(I) during transportation by the juvenile of an unloaded handgun in a locked container directly from the place of transfer to a place at which an activity described in clause (i) is to take place and transportation by the juvenile of that handgun, unloaded and in a locked container, directly from the place at which such an activity took place to the transferor; or

(II) with respect to ranching or farming activities as described in clause (i), a juvenile may possess and use a handgun or ammunition with the prior written approval of the juvenile's parent or legal guardian and at the direction of an adult who is not prohibited by Federal, State or local law from possessing a firearm;

(iii) the juvenile has the prior written consent in the juvenile's possession at all times when a handgun is in the possession of the juvenile; and

(iv) in accordance with State and local law;

(B) a juvenile who is a member of the Armed Forces of the United States or the National Guard who possesses or is armed with a handgun in the line of duty;

(C) a transfer by inheritance of title (but not possession) of a handgun or ammunition to a juvenile; or

(D) the possession of a handgun or ammunition by a juvenile taken in defense of the juvenile or other persons against an intruder into the residence of the juvenile or a residence in which the juvenile is an invited guest.

(4) A handgun or ammunition, the possession of which is transferred to a juvenile in circumstances in which the transferor is not in violation of this subsection shall not be subject to permanent confiscation by the Government if its possession by the juvenile subsequently becomes unlawful because of the conduct of the juvenile, but shall be returned to the lawful owner when such handgun or ammunition is no longer required by the Government for the purposes of investigation or prosecution.

(5) For purposes of this subsection, the term "juvenile" means a person who is less than 18 years of age.

(6)(A) In a prosecution of a violation of this subsection, the court shall require the presence of a juvenile defendant's parent or legal guardian at all proceedings.

(B) The court may use the contempt power to enforce subparagraph (A).

(C) The court may excuse attendance of a parent or legal guardian of a juvenile defendant at a proceeding in a prosecution of a violation of this subsection for good cause shown.

(y) PROVISIONS RELATING TO ALIENS ADMITTED UNDER NONIMMIGRANT VISAS.—

(1) DEFINITIONS.—In this subsection—

(A) the term "alien" has the same meaning as in section 101(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(3)); and

(B) the term "nonimmigrant visa" has the same meaning as in section 101(a)(26) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(26)).

(2) EXCEPTIONS.—Subsections (d)(5)(B), (g)(5)(B), and (s)(3)(B)(v)(II) do not apply to any alien who has been lawfully admitted to the United States under a nonimmigrant visa, if that alien is—

(A) admitted to the United States for lawful hunting or sporting purposes or is in possession of a hunting license or permit lawfully issued in the United States;

(B) an official representative of a foreign government who is—

(i) accredited to the United States Government or the Government's mission to an international organization having its headquarters in the United States; or

(ii) en route to or from another country to which that alien is accredited;

(C) an official of a foreign government or a distinguished foreign visitor who has been so designated by the Department of State; or

(D) a foreign law enforcement officer of a friendly foreign government entering the United States on official law enforcement business.

(3) WAIVER.—

(A) CONDITIONS FOR WAIVER.—Any individual who has been admitted to the United States under a nonimmigrant visa may receive a waiver from the requirements of subsection (g)(5), if—

(i) the individual submits to the Attorney General a petition that meets the requirements of subparagraph (C); and

(ii) the Attorney General approves the petition.

(B) PETITION.—Each petition under subparagraph (B) shall—

(i) demonstrate that the petitioner has resided in the United States for a continuous period of not less than 180 days before the date on which the petition is submitted under this paragraph; and

(ii) include a written statement from the embassy or consulate of the petitioner, authorizing the petitioner to acquire a firearm or ammunition and certifying that the alien would not, absent the application of subsection (g)(5)(B), otherwise be prohibited from such acquisition under subsection (g).

(C) APPROVAL OF PETITION.—The Attorney General shall approve a petition submitted in accordance with this paragraph, if the Attorney General determines that waiving the requirements of subsection (g)(5)(B) with respect to the petitioner—

(i) would be in the interests of justice; and

(ii) would not jeopardize the public safety.

(z) SECURE GUN STORAGE OR SAFETY DEVICE.—

(1) IN GENERAL.—Except as provided under paragraph (2), it shall be unlawful for any licensed importer, licensed manufacturer, or licensed dealer to sell, deliver, or transfer any handgun to any person other than any person licensed under this chapter, unless the transferee is provided with a secure gun storage or safety device (as defined in section 921(a)(34)) for that handgun.

(2) EXCEPTIONS.—Paragraph (1) shall not apply to—

(A)(i) the manufacture for, transfer to, or possession by, the United States, a department or agency of the United States, a State, or a department, agency, or political subdivision of a State, of a handgun; or

(ii) the transfer to, or possession by, a law enforcement officer employed by an entity referred to in clause (i) of a handgun for law enforcement purposes (whether on or off duty); or

(B) the transfer to, or possession by, a rail police officer employed by a rail carrier and certified or commissioned as a police officer under the laws of a State of a handgun for purposes of law enforcement (whether on or off duty);

(C) the transfer to any person of a handgun listed as a curio or relic by the Secretary pursuant to section 921(a)(13); or

(D) the transfer to any person of a handgun for which a secure gun storage or safety device is temporarily unavailable for the reasons described in the exceptions stated in section 923(e), if the licensed manufacturer, licensed importer, or licensed dealer delivers to the transferee within 10 calendar days from the date of the delivery of the handgun to the transferee a secure gun storage or safety device for the handgun.

(3) LIABILITY FOR USE.—

(A) IN GENERAL.—Notwithstanding any other provision of law, a person who has lawful possession and control of a handgun, and who uses a secure gun storage or safety device with the handgun, shall be entitled to immunity from a qualified civil liability action.

(B) PROSPECTIVE ACTIONS.—A qualified civil liability action may not be brought in any Federal or State court.

(C) DEFINED TERM.—As used in this paragraph, the term “qualified civil liability action” —

(i) means a civil action brought by any person against a person described in subparagraph (A) for damages resulting from the criminal or unlawful misuse of the handgun by a third party, if—

(I) the handgun was accessed by another person who did not have the permission or authorization of the person having lawful possession and control of the handgun to have access to it; and

(II) at the time access was gained by the person not so authorized, the handgun had been made inoperable by use of a secure gun storage or safety device; and

(ii) shall not include an action brought against the person having lawful possession and control of the handgun for negligent entrustment or negligence per se.

[APPENDIX A Repealed. Pub. L. 103-322, title XI, § 110105(2), Sept. 13, 1994, 108 Stat. 2000]

(Added Pub. L. 90-351, title IV, § 902, June 19, 1968, 82 Stat. 228; amended Pub. L. 90-618, title I, § 102, Oct. 22, 1968, 82 Stat. 1216; Pub. L. 97-377,

title I, § 165(a), Dec. 21, 1982, 96 Stat. 1923; Pub. L. 99-308, § 102, May 19, 1986, 100 Stat. 451; Pub. L. 99-408, § 2, Aug. 28, 1986, 100 Stat. 920; Pub. L. 99-514, § 2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 100-649, § 2(a), (f)(2)(A), Nov. 10, 1988, 102 Stat. 3816, 3818; Pub. L. 100-690, title VII, § 7060(c), Nov. 18, 1988, 102 Stat. 4404; Pub. L. 101-647, title XVII, § 1702(b)(1), title XXII, §§ 2201, 2202, 2204(b), title XXXV, § 3524, Nov. 29, 1990, 104 Stat. 4844, 4856, 4857, 4924; Pub. L. 103-159, title I, § 102(a)(1), (b), title III, § 302(a)-(c), Nov. 30, 1993, 107 Stat. 1536, 1539, 1545; Pub. L. 103-322, title XI, §§ 110102(a), 110103(a), 110105(2), 110106, 110201(a), 110401(b), (c), 110511, 110514, title XXXII, §§ 320904, 320927, title XXXIII, § 330011(i), Sept. 13, 1994, 108 Stat. 1996, 1998, 2000, 2010, 2014, 2019, 2125, 2131, 2145; Pub. L. 104-208, div. A, title I, § 101(f) [title VI, § 657, 4857(b)], Sept. 30, 1996, 110 Stat. 3009-314, 3009-369, 3009-372; Pub. L. 104-294, title VI, § 603(b), (c)(1), (d)-(f)(1), (g), Oct. 11, 1996, 110 Stat. 3503, 3504; Pub. L. 105-277, div. A, § 101(b) [title I, § 121], Oct. 21, 1998, 112 Stat. 2681-50, 2681-71; Pub. L. 107-273, div. B, title IV, § 4003(a)(1), Nov. 2, 2002, 116 Stat. 1811; Pub. L. 107-296, title XI, § 1112(f)(4), (6), Nov. 25, 2002, 116 Stat. 2276; Pub. L. 109-92, §§ 5(c)(1), 6(a), Oct. 26, 2005, 119 Stat. 2099, 2101.)

AMENDMENT OF SECTION

Pub. L. 100-649, § 2(f)(2)(A), Nov. 10, 1988, 102 Stat. 3818, as amended by Pub. L. 105-277, div. A, § 101(h) [title VI, § 649], Oct. 21, 1998, 112 Stat. 2681-480, 2681-528; Pub. L. 108-174, § 1(1), Dec. 9, 2003, 117 Stat. 2481, provided that, effective 25 years after the 30th day beginning after Nov. 10, 1988, subsection (p) of this section is repealed.

REFERENCES IN TEXT

The effective date of this chapter, referred to in subsec. (a)(3), is December 16, 1968.

Section 5845 of the Internal Revenue Code of 1986, referred to in subsecs. (a)(4) and (b)(4), is classified to section 5845 of Title 26, Internal Revenue Code.

For date this subsection takes effect, referred to in subsec. (o)(2)(B), as May 19, 1986, see Effective Date of 1986 Amendment note, set out below.

The date of the enactment of this subsection and the date of the enactment of the Undetectable Firearms Act of 1988, referred to in subsec. (p)(2)(C)(i), (6), respectively, are both the date of enactment of Pub. L. 100-649, which enacted subsec. (p) of this section and which was approved Nov. 10, 1988.

The date of enactment of this subsection, referred to in subsec. (s)(1), is the date of enactment of Pub. L. 103-159, which was approved Nov. 30, 1993.

Section 5812 of the Internal Revenue Code of 1986, referred to in subsecs. (s)(1)(E) and (t)(3)(B), is classified to section 5812 of Title 26, Internal Revenue Code.

Section 1028 of this title, referred to in subsec. (s)(3)(A), was subsequently amended, and section 1028(d)(1) no longer defines the term “identification document”. However, such term is defined elsewhere in that section.

Section 102 of the Controlled Substances Act, referred to in subsec. (s)(3)(B)(iii), is classified to section 802 of Title 21, Food and Drugs.

Section 103 of the Brady Handgun Violence Prevention Act, referred to in subsec. (t)(1), is section 103 of Pub. L. 103-159, which is set out below.

AMENDMENTS

2005—Subsec. (a)(7), (8). Pub. L. 109-92, § 6(a), added pars. (7) and (8) and struck out former pars. (7) and (8) which related to prohibitions on the manufacture, importation, sale, and delivery of armor piercing ammunition.

Subsec. (z). Pub. L. 109-92, §5(c)(1), added subsec. (z). 2002—Subsecs. (a) to (c), (p)(2) to (4). Pub. L. 107-296, §1112(f)(6), substituted “Attorney General” for “Secretary” wherever appearing.

Subsec. (p)(5)(A). Pub. L. 107-296, §1112(f)(4), substituted “after consultation with the Attorney General” for “after consultation with the Secretary”.

Subsecs. (r), (s). Pub. L. 107-296, §1112(f)(6), substituted “Attorney General” for “Secretary” wherever appearing.

Subsec. (t)(1)(C). Pub. L. 107-273 substituted “1028(d)” for “1028(d)(1)”.

Subsecs. (t)(3), (5), (v), (w). Pub. L. 107-296, §1112(f)(6), substituted “Attorney General” for “Secretary” wherever appearing.

1998—Subsec. (d)(5). Pub. L. 105-277, §101(b) [title I, §121(1)], added par. (5) and struck out former par. (5) which read as follows: “who, being an alien, is illegally or unlawfully in the United States;”.

Subsec. (g)(5). Pub. L. 105-277, §101(b) [title I, §121(2)], added par. (5) and struck out former par. (5) which read as follows: “who, being an alien, is illegally or unlawfully in the United States;”.

Subsec. (s)(3)(B)(v). Pub. L. 105-277, §101(b) [title I, §121(3)], added cl. (v) and struck out former cl. (v) which read as follows: “is not an alien who is illegally or unlawfully in the United States;”.

Subsec. (y). Pub. L. 105-277, §101(b) [title I, §121(4)], added subsec. (y).

1996—Pub. L. 104-294, §603(g), amended Appendix A by substituting “Uberti 1866 Sporting Rifle” for “Uberti 1866 Sporting Rifle” in category designated “Centerfire Rifles—Lever & Slide”, “Sako FiberClass Sporter” for “Sako Fiberclass Sporter” in category designated “Centerfire Rifles—Bolt Action”, “Remington 870 SPS Special Purpose Magnum” for “Remington 879 SPS Special Purpose Magnum” in category designated “Shotguns—Slide Actions”, and “E.A.A./Sabatti Falcon-Mon Over/Under” for “E.A.A./Sabatti Falcon-Mon Over/Under” in category designated “Shotguns—Over/Unders”.

Subsec. (d)(9). Pub. L. 104-208, §101(f) [§658(b)(1)], added par. (9).

Subsec. (g)(7). Pub. L. 104-208, §101(f) [§658(b)(2)(A)], struck out “or” at end.

Subsec. (g)(8)(C)(ii). Pub. L. 104-294, §603(b), which directed the amendment of cl. (ii) by substituting a semicolon for the comma at end, could not be executed because of the prior amendment by Pub. L. 104-208, §101(f) [§658(b)(2)]. See below.

Pub. L. 104-208, §101(f) [§658(b)(2)(B)], substituted “; or” for comma at end.

Subsec. (g)(9). Pub. L. 104-208, §101(f) [§658(b)(2)(C)], added par. (9).

Subsec. (q). Pub. L. 104-208, §101(f) [title VI, §657], amended subsec. generally, revising and restating former provisions.

Subsec. (s)(1). Pub. L. 104-294, §603(c)(1), amended directory language of Pub. L. 103-322, §320927. See 1994 Amendment note below.

Subsec. (s)(3)(B)(i). Pub. L. 104-208, §101(f) [title VI, §658(b)(3)], inserted “, and has not been convicted in any court of a misdemeanor crime of domestic violence” before the semicolon.

Subsec. (t)(2). Pub. L. 104-294, §603(d), substituted “subsection (g) or (n)” for “section 922(g) or (n)” in introductory provisions.

Subsec. (w)(4). Pub. L. 104-294, §603(e), substituted “section 923(i) of this title” for “section 923(i) of title 18, United States Code,”.

Subsec. (x). Pub. L. 104-294, §603(f)(1), amended directory language of Pub. L. 103-322, §110201(a). See 1994 Amendment note below.

1994—Pub. L. 103-322, §110106, which added Appendix A specifying firearms that were not prohibited by subsec. (v)(1) at end of section, was repealed by Pub. L. 103-322, §110105(2). See Effective and Termination Dates of 1994 Amendment note below.

Subsec. (a)(9). Pub. L. 103-322, §110514, added par. (9).

Subsec. (b)(1). Pub. L. 103-322, §330011(i), amended directory language of Pub. L. 101-647, §3524. See 1990 Amendment note below.

Subsec. (d)(8). Pub. L. 103-322, §110401(b), added par. (8).

Subsec. (g)(8). Pub. L. 103-322, §110401(c), added par. (8).

Subsec. (j). Pub. L. 103-322, §110511, amended subsec. (j) generally. Prior to amendment, subsec. (j) read as follows: “It shall be unlawful for any person to receive, conceal, store, barter, sell, or dispose of any stolen firearm or stolen ammunition, or pledge or accept as security for a loan any stolen firearm or stolen ammunition, which is moving as, which is a part of, which constitutes, or which has been shipped or transported in, interstate or foreign commerce, knowing or having reasonable cause to believe that the firearm or ammunition was stolen.”

Subsec. (q). Pub. L. 103-322, §320904, added par. (1) and redesignated former pars. (1) to (3) as (2) to (4), respectively.

Subsec. (s)(1). Pub. L. 103-322, §320927, as amended by Pub. L. 104-294, §603(c)(1), inserted “(other than the return of a handgun to the person from whom it was received)” after “handgun” in introductory provisions.

Subsec. (v). Pub. L. 103-322, §110102(a), which added subsec. (v) prohibiting the manufacture, transfer, or possession of automatic assault weapons, was repealed by Pub. L. 103-322, §110105(2). See Effective and Termination Dates of 1994 Amendment note below.

Subsec. (w). Pub. L. 103-322, §110103(a), which added subsec. (w) prohibiting the transfer or possession of a large capacity ammunition feeding device, was repealed by Pub. L. 103-322, §110105(2). See Effective and Termination Dates of 1994 Amendment note below.

Subsec. (x). Pub. L. 103-322, §110201(a), as amended by Pub. L. 104-294, §603(f)(1), added subsec. (x).

1993—Subsec. (e). Pub. L. 103-159, §302(a), inserted at end “No common or contract carrier shall require or cause any label, tag, or other written notice to be placed on the outside of any package, luggage, or other container that such package, luggage, or other container contains a firearm.”

Subsec. (f). Pub. L. 103-159, §302(b), designated existing provisions as par. (1) and added par. (2).

Subsec. (s). Pub. L. 103-159, §102(a)(1), added subsec. (s).

Subsec. (t). Pub. L. 103-159, §102(b), added subsec. (t).

Subsec. (u). Pub. L. 103-159, §302(c), added subsec. (u).

1990—Subsec. (a)(5). Pub. L. 101-647, §2201, substituted “does not reside in (or if the person is a corporation or other business entity, does not maintain a place of business in) the State in which the transferor resides;” for “resides in any State other than that in which the transferor resides (or other than that in which its place of business is located if the transferor is a corporation or other business entity);”.

Subsec. (b)(1). Pub. L. 101-647, §3524, as amended by Pub. L. 103-322, §330011(i), substituted semicolon for period at end.

Subsec. (j). Pub. L. 101-647, §2202(a), substituted “which constitutes, or which has been shipped or transported in” for “or which constitutes”.

Subsec. (k). Pub. L. 101-647, §2202(b), inserted before period at end “or to possess or receive any firearm which has had the importer’s or manufacturer’s serial number removed, obliterated, or altered and has, at any time, been shipped or transported in interstate or foreign commerce”.

Subsec. (q). Pub. L. 101-647, §1702(b)(1), added subsec. (q).

Subsec. (r). Pub. L. 101-647, §2204(b), added subsec. (r). 1988—Subsec. (g)(3). Pub. L. 100-690 inserted “who” before “is”.

Subsec. (p). Pub. L. 100-649 added subsec. (p).

1986—Subsec. (a)(1). Pub. L. 99-308, §102(1), amended par. (1) generally. Prior to amendment, par. (1) read as follows: “for any person, except a licensed importer, licensed manufacturer, or licensed dealer, to engage in the business of importing, manufacturing, or dealing in firearms or ammunition, or in the course of such business to ship, transport, or receive any firearm or ammunition in interstate or foreign commerce;”

Subsec. (a)(2). Pub. L. 99-308, §102(2)(A), in provision preceding subpar. (A) struck out “or ammunition” after “any firearm”.

Subsec. (a)(2)(A). Pub. L. 99-308, §102(2)(B), substituted “licensed dealer, or licensed collector” for “or licensed dealer for the sole purpose of repair or customizing”.

Subsec. (a)(3)(B). Pub. L. 99-308, §102(3), substituted “firearm” for “rifle or shotgun” and “with subsection (b)(3) of this section” for “with the provisions of subsection (b)(3) of this section”.

Subsec. (a)(4). Pub. L. 99-514 substituted “Internal Revenue Code of 1986” for “Internal Revenue Code of 1954”.

Subsec. (a)(7), (8). Pub. L. 99-408 added pars. (7) and (8).

Subsec. (b)(2). Pub. L. 99-308, §102(4)(A), struck out “or ammunition” after “firearm” in two places.

Subsec. (b)(3)(A). Pub. L. 99-308, §102(4)(B), inserted a new cl. (A) and struck out former cl. (A) which provided that par. (3) “shall not apply to the sale or delivery of a rifle or shotgun to a resident of a State contiguous to the State in which the licensee’s place of business is located if the purchaser’s State of residence permits such sale or delivery by law, the sale fully complies with the legal conditions of sale in both such contiguous States, and the purchaser and the licensee have, prior to the sale, or delivery for sale, of the rifle or shotgun, complied with all of the requirements of section 922(c) applicable to intrastate transactions other than at the licensee’s business premises.”.

Subsec. (b)(3)(B), (C). Pub. L. 99-308, §102(4)(C), (D), inserted “and” before “(B)” and struck out cl. (C), which provided that par. (3) “shall not preclude any person who is participating in any organized rifle or shotgun match or contest, or is engaged in hunting, in a State other than his State of residence and whose rifle or shotgun has been lost or stolen or has become inoperative in such other State, from purchasing a rifle or shotgun in such other State from a licensed dealer if such person presents to such dealer a sworn statement (i) that his rifle or shotgun was lost or stolen or became inoperative while participating in such a match or contest, or while engaged in hunting, in such other State, and (ii) identifying the chief law enforcement officer of the locality in which such person resides, to whom such licensed dealer shall forward such statement by registered mail”.

Subsec. (b)(4). Pub. L. 99-514 substituted “Internal Revenue Code of 1986” for “Internal Revenue Code of 1954”.

Subsec. (b)(5). Pub. L. 99-308, §102(4)(E), substituted “or armor-piercing ammunition” for “or ammunition except .22 caliber rimfire ammunition”.

Subsec. (d). Pub. L. 99-308, §102(5)(A), substituted “person” for “licensed importer, licensed manufacturer, licensed dealer, or licensed collector” in provision preceding par. (1).

Subsec. (d)(3). Pub. L. 99-308, §102(5)(B), amended par. (3) generally. Prior to amendment, par. (3) read as follows: “is an unlawful user of or addicted to marihuana or any depressant or stimulant drug (as defined in section 201(v) of the Federal Food, Drug, and Cosmetic Act) or narcotic drug (as defined in section 4731(a) of the Internal Revenue Code of 1954); or”.

Subsec. (d)(5) to (7). Pub. L. 99-308, §102(5)(C), (D), added pars. (5) to (7).

Subsec. (g). Pub. L. 99-308, §102(6)(D), in concluding provision substituted “in interstate or foreign commerce, or possess in or affecting commerce, any firearm or ammunition; or to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce” for “any firearm or ammunition in interstate or foreign commerce”.

Subsec. (g)(1). Pub. L. 99-308, §102(6)(A), struck out “is under indictment for, or who” after “who”.

Subsec. (g)(3). Pub. L. 99-308, §102(6)(B), amended par. (3) generally. Prior to amendment, par. (3) read as follows: “who is an unlawful user of or addicted to marihuana or any depressant or stimulant drug (as defined

in section 201(v) of the Federal Food, Drug, and Cosmetic Act) or narcotic drug (as defined in section 4731(a) of the Internal Revenue Code of 1954); or”.

Subsec. (g)(5) to (7). Pub. L. 99-308, §102(6)(C), added pars. (5) to (7).

Subsec. (h). Pub. L. 99-308, §102(7), amended subsec. (h) generally. Prior to amendment, subsec. (h) read as follows: “It shall be unlawful for any person—

“(1) who is under indictment for, or who has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year;

“(2) who is a fugitive from justice;

“(3) who is an unlawful user of or addicted to marihuana or any depressant or stimulant drug (as defined in section 201(v) of the Federal Food, Drug, and Cosmetic Act) or narcotic drug (as defined in section 4731(a) of the Internal Revenue Code of 1954); or

“(4) who has been adjudicated as a mental defective or who has been committed to any mental institution;

to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.”

Subsec. (n). Pub. L. 99-308, §102(8), added subsec. (n).

Subsec. (o). Pub. L. 99-308, §102(9), added subsec. (o). 1982—Subsec. (b)(5). Pub. L. 97-377 inserted “except .22 caliber rimfire ammunition” after “or ammunition”.

1968—Subsec. (a)(1). Pub. L. 90-618 reenacted par. (1) without change.

Subsec. (a)(2). Pub. L. 90-618 added licensed collectors to the enumerated list of licensees subject to the provisions of this chapter, struck out exemption for the shipment or transportation in interstate or foreign commerce for rifles or shotguns, and inserted exemption authorizing an individual to mail a lawfully owned firearm to the specified licensees for the sole purpose of repair or customizing.

Subsec. (a)(3). Pub. L. 90-618 added licensed collectors to the enumerated list of licensees, struck out exemption for shotguns or rifles purchased or otherwise obtained outside the state of residence of the recipient, struck out provision making it unlawful for any person to purchase or otherwise obtain outside his state of residence any firearm which it would be unlawful for him to purchase or possess in that state, and provided for exemptions when any person outside of his state of residence acquires a firearm by bequest or interstate succession and transports the firearm or otherwise receives it in his state of residence, if it is lawful for such person to purchase or possess such firearm in his state of residence, when a rifle or shotgun is obtained in conformity with the provisions of subsec. (b)(3) of this section, and when any firearm has been acquired in any state prior to the effective date of this chapter.

Subsec. (a)(4). Pub. L. 90-618 added licensed collectors to the enumerated list of licensees, and provided that the transporting of the specified articles be authorized by the Secretary when consistent with public safety and necessity.

Subsec. (a)(5). Pub. L. 90-618 added licensed collectors to the enumerated list of exempted licensees, prohibited the transfer, etc., of any firearm when the transferor has reasonable cause to believe that the transferee resides in a State other than that in which the transferor resides, and substituted provisions which exempted the transfer, transportation, or delivery of firearms incident to a bequest or intestate succession and the loan or rental of firearms to any person for temporary use for lawful sporting purposes for provisions which exempted the transfer of shotguns or rifles and prohibited the transfer, etc., of any firearm which the transferee could not lawfully purchase or possess in accord with the applicable laws, regulations or ordinances of the state or political subdivision in which the transferee resides.

Subsec. (a)(6). Pub. L. 90-618 added licensed collectors to the enumerated list of licensees, and extended the provisions to include the acquisition or attempted acquisition of ammunition.

Subsec. (b). Pub. L. 90-618, in provision preceding par. (1), added licensed collectors to the enumerated list of licensees.

Subsec. (b)(1). Pub. L. 90-618 substituted provisions making it unlawful to sell or deliver any firearm or ammunition to any individual who the licensee knows or has reasonable cause to believe is less than 18, and to sell or deliver any firearm, other than a rifle or shotgun, or ammunition, other than ammunition for a rifle or shotgun, to any individual who the licensee knows or has reasonable cause to believe is less than 21, for provisions making it unlawful to sell or deliver any firearm to any individual who the licensee knows or has reasonable cause to believe is less than 21, if the firearm is other than a shotgun or rifle.

Subsec. (b)(2). Pub. L. 90-618 extended the prohibition to include the sale or delivery of ammunition to any person where the purchase or possession by such person of such ammunition would be unlawful, and struck out “or in the locality in which such person resides” after “or other disposition.”

Subsec. (b)(3). Pub. L. 90-618 inserted the exemptions to the prohibition against the sale or delivery of any firearm to any person who the licensee knows or has reasonable cause to believe does not reside in the state in which the licensee’s place of business is located.

Subsec. (b)(4). Pub. L. 90-618 substituted provisions making it unlawful to sell or deliver any of the specified articles, except as specifically authorized by the Secretary as consistent with public safety and necessity, for provisions making it unlawful to sell or deliver any of the specified articles, unless the transferor has obtained a sworn statement executed by the principal law enforcement officer of the locality in which the transferee resides stating that such person’s receipt or possession would not be unlawful, and that the receipt or possession is intended for lawful purposes, with such sworn statement to be retained by the licensee as part of the records required to be kept under this chapter.

Subsec. (b)(5). Pub. L. 90-618 extended the prohibition to include the sale or delivery of ammunition and, in the material following subsec. (b)(5), added licensed collectors to the enumerated list of licensees, and the provision that subsec. (b)(4) shall not apply to a sale or delivery to any research organization designated by the Secretary.

Subsecs. (c), (d). Pub. L. 90-618 added subsec. (c), redesignated former subsec. (c) as (d), added licensed collectors to the enumerated list of licensees, extended the prohibition against disposal of firearms or ammunition to include the disposal by any person who is an unlawful user of or addicted to marihuana or any depressant, stimulant, or narcotic drug, or any person who has been adjudicated a mental defective or has been committed to any mental institution, and inserted “or ammunition” after “the sale or disposition of a firearm”. Former subsec. (d) redesignated (f).

Subsec. (e). Pub. L. 90-618 added subsec. (e). Former subsec. (e) redesignated (g).

Subsec. (f). Pub. L. 90-618 redesignated former subsec. (d) as (f) and extended the prohibition against transportation or delivery to include ammunition. Former subsec. (f) redesignated (h).

Subsec. (g). Pub. L. 90-618 redesignated former subsec. (e) as (g) and extended the prohibition against the shipment or transportation of firearms or ammunition to include the shipment or transportation by any persons who is an unlawful user of or addicted to marihuana or any depressant, stimulant, or narcotic drug, or any person who has been adjudicated a mental defective or has been committed to a mental institution. Former subsec. (g) redesignated (i).

Subsec. (h). Pub. L. 90-618 redesignated former subsec. (f) as (h) and extended the prohibition against the receipt of any firearms or ammunition to include the receipt by any person who is an unlawful user of or addicted to marihuana or any depressant, stimulant, or narcotic drug, or any person who has been adjudicated a mental defective or has been committed to any mental institution. Former subsec. (h) redesignated (j).

Subsec. (i). Pub. L. 90-618 redesignated former subsec. (g) as (i) and substituted “that the firearm or ammunition was” for “the same to have been”. Former subsec. (i) redesignated (k).

Subsec. (j). Pub. L. 90-618 redesignated former subsec. (h) as (j) and substituted “which is moving as, which is a part of,” for “moving as or which is a part of” and “that the firearm or ammunition was” for “the same to have been”. Former subsec. (j) redesignated (l).

Subsec. (k). Pub. L. 90-618 redesignated former subsec. (i) as (k). Former subsec. (k) redesignated (m).

Subsec. (l). Pub. L. 90-618 redesignated former subsec. (j) as (l).

Subsec. (m). Pub. L. 90-618 redesignated former subsec. (k) as (m) and added licensed collectors to the enumerated list of licensees.

CHANGE OF NAME

Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director’s capacity as the head of the intelligence community deemed to be a reference to the Director of National Intelligence. Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director’s capacity as the head of the Central Intelligence Agency deemed to be a reference to the Director of the Central Intelligence Agency. See section 1081(a), (b) of Pub. L. 108-458, set out as a note under section 401 of Title 50, War and National Defense.

Post Office Department, referred to in subsec. (c)(2), redesignated United States Postal Service pursuant to Pub. L. 91-375, §6(o), Aug. 12, 1970, 84 Stat. 733, set out as a note preceding section 101 of Title 39, Postal Service.

EFFECTIVE DATE OF 2005 AMENDMENT

Pub. L. 109-92, §5(d), Oct. 26, 2005, 119 Stat. 2101, provided that: “This section [amending this section and section 924 of this title and enacting provisions set out as notes under this section and section 921 of this title] and the amendments made by this section shall take effect 180 days after the date of enactment of this Act [Oct. 26, 2005].”

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-296 effective 60 days after Nov. 25, 2002, see section 4 of Pub. L. 107-296, set out as an Effective Date note under section 101 of Title 6, Domestic Security.

EFFECTIVE DATE OF 1996 AMENDMENT

Section 603(c)(2) of Pub. L. 104-294 provided that: “The amendment made by paragraph (1) [amending this section] shall take effect as if the amendment had been included in section 320927 of the Act referred to in paragraph (1) [Pub. L. 103-322] on the date of the enactment of such Act [Sept. 13, 1994].”

Section 603(f)(2) of Pub. L. 104-294 provided that: “The amendment made by paragraph (1) [amending this section] shall take effect as if the amendment had been included in section 110201 of the Act referred to in paragraph (1) [Pub. L. 103-322] on the date of the enactment of such Act [Sept. 13, 1994].”

Section 603(i)(2) of Pub. L. 104-294 provided that: “The amendment made by paragraph (1) [amending section 210603(b) of Pub. L. 103-322, which amended sections 103(k) and 106(b)(2) of Pub. L. 103-159, set out as notes below] shall take effect as if the amendment had been included in section 210603(b) of the Act referred to in paragraph (1) [Pub. L. 103-322] on the date of the enactment of such Act [Sept. 13, 1994].”

EFFECTIVE AND TERMINATION DATES OF 1994 AMENDMENT

Amendment by sections 110102(a), 110103(a), and 110106 of Pub. L. 103-322 repealed 10 years after Sept. 13, 1994, see section 110105(2) of Pub. L. 103-322, formerly set out as a note under section 921 of this title.

Section 330011(i) of Pub. L. 103-322 provided that the amendment made by that section is effective as of the date on which section 3524 of Pub. L. 101-647 took effect.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by section 1702(b)(1) of Pub. L. 101-647 applicable to conduct engaged in after the end of the 60-day period beginning on Nov. 29, 1990, see section 1702(b)(4) of Pub. L. 101-647, set out as a note under section 921 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT; SUNSET PROVISION

Pub. L. 100-649, §2(f), Nov. 10, 1988, 102 Stat. 3818, as amended by Pub. L. 101-647, title XXXV, §3526(b), Nov. 29, 1990, 104 Stat. 4924; Pub. L. 105-277, div. A, §101(h) [title VI, §649], Oct. 21, 1998, 112 Stat. 2681-480, 2681-528; Pub. L. 108-174, §1, Dec. 9, 2003, 117 Stat. 2481, provided that:

“(1) EFFECTIVE DATE.—This Act and the amendments made by this Act [amending this section and sections 924 and 925 of this title and enacting provisions set out as notes under this section, section 921 of this title, and section 1356 of former Title 49, Transportation] shall take effect on the 30th day beginning after the date of the enactment of this Act [Nov. 10, 1988].

“(2) Sunset.—Effective 25 years after the effective date of this Act—

“(A) subsection (p) of section 922 of title 18, United States Code, is hereby repealed;

“(B) subsection (f) of section 924 of such title is hereby repealed and subsections (g) through (o) of such section are hereby redesignated as subsections (f) through (n), respectively;

“(C) subsection (f) of section 925 of such title is hereby repealed;

“(D) section 924(a)(1) of such title is amended by striking ‘this subsection, subsection (b), (c), or (f) of this section, or in section 929’ and inserting ‘this chapter’; and

“(E) section 925(a) of such title is amended—

“(i) in paragraph (1), by striking ‘and provisions relating to firearms subject to the prohibitions of section 922(p)’; and

“(ii) in paragraph (2), by striking ‘, except for provisions relating to firearms subject to the prohibitions of section 922(p),’; and

“(iii) in each of paragraphs (3) and (4), by striking ‘except for provisions relating to firearms subject to the prohibitions of section 922(p),’.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 102(1)–(8) of Pub. L. 99-308 effective 180 days after May 19, 1986, and amendment by section 102(9) of Pub. L. 99-308 effective May 19, 1986, see section 110(a), (c) of Pub. L. 99-308, set out as a note under section 921 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-618 effective Dec. 16, 1968, except subsec. (l) effective Oct. 22, 1968, see section 105 of Pub. L. 90-618, set out as a note under section 921 of this title.

PURPOSES

Pub. L. 109-92, §5(b), Oct. 26, 2005, 119 Stat. 2099, provided that: “The purposes of this section [amending this section and section 924 of this title and enacting provisions set out as notes under this section and section 921 of this title] are—

“(1) to promote the safe storage and use of handguns by consumers;

“(2) to prevent unauthorized persons from gaining access to or use of a handgun, including children who may not be in possession of a handgun; and

“(3) to avoid hindering industry from supplying firearms to law abiding citizens for all lawful purposes, including hunting, self-defense, collecting, and competitive or recreational shooting.”

[For definition of “person” as used in section 5(b) of Pub. L. 109-92, set out above, see section 7903 of Title 15, Commerce and Trade.]

LIABILITY; EVIDENCE

Pub. L. 109-92, §5(c)(3), Oct. 26, 2005, 119 Stat. 2101, provided that:

“(A) LIABILITY.—Nothing in this section [amending this section and section 924 of this title and enacting provisions set out as notes under this section and section 921 of this title] shall be construed to—

“(i) create a cause of action against any Federal firearms licensee or any other person for any civil liability; or

“(ii) establish any standard of care.

“(B) EVIDENCE.—Notwithstanding any other provision of law, evidence regarding compliance or noncompliance with the amendments made by this section shall not be admissible as evidence in any proceeding of any court, agency, board, or other entity, except with respect to an action relating to section 922(z) of title 18, United States Code, as added by this subsection.

“(C) RULE OF CONSTRUCTION.—Nothing in this paragraph shall be construed to bar a governmental action to impose a penalty under section 924(p) of title 18, United States Code, for a failure to comply with section 922(z) of that title.”

[For definition of “person” as used in section 5(c)(3) of Pub. L. 109-92, set out above, see section 7903 of Title 15, Commerce and Trade.]

CRIMINAL BACKGROUND CHECKS FOR PERSONS OFFERING FIREARM AS COLLATERAL

Pub. L. 106-58, title VI, §634, Sept. 29, 1999, 113 Stat. 473, provided that: “None of the funds made available in this or any other Act with respect to any fiscal year may be used for any system to implement section 922(t) of title 18, United States Code, unless the system allows, in connection with a person’s delivery of a firearm to a Federal firearms licensee as collateral for a loan, the background check to be performed at the time the collateral is offered for delivery to such licensee: *Provided*, That the licensee notifies local law enforcement within 48 hours of the licensee receiving a denial on the person offering the collateral: *Provided further*, That the provisions of section 922(t) shall apply at the time of the redemption of the firearm.”

Similar provisions were contained in the following prior appropriation act:

Pub. L. 105-277, div. A, §101(h) [title VI, §655], Oct. 21, 1998, 112 Stat. 2681-480, 2681-530.

AVAILABILITY OF VIOLENT CRIME REDUCTION TRUST FUND TO FUND ACTIVITIES AUTHORIZED BY BRADY HANDGUN VIOLENCE PREVENTION ACT AND NATIONAL CHILD PROTECTION ACT OF 1993

Pub. L. 103-322, title XXI, §210603(a), Sept. 13, 1994, 108 Stat. 2074, which provided that certain amounts authorized in sections 103(k) and 106(b)(2) of Pub. L. 103-159, set out below, and section 5119b(b) of Title 42, The Public Health and Welfare, may be appropriated from the Violent Crime Reduction Trust Fund, was repealed by Pub. L. 109-162, title XI, §1154(b)(4), Jan. 5, 2006, 119 Stat. 3113.

NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM

Pub. L. 110-180, Jan. 8, 2008, 121 Stat. 2559, provided that:

“SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

“(a) SHORT TITLE [sic].—This Act may be cited as the ‘NICS Improvement Amendments Act of 2007’.

“(b) Table of Contents.—[Omitted.]

“SEC. 2. FINDINGS.

“Congress finds the following:

“(1) Approximately 916,000 individuals were prohibited from purchasing a firearm for failing a background check between November 30, 1998, (the date the National Instant Criminal Background Check System (NICS) began operating) and December 31, 2004.

“(2) From November 30, 1998, through December 31, 2004, nearly 49,000,000 Brady background checks were processed through NICS.

“(3) Although most Brady background checks are processed through NICS in seconds, many background checks are delayed if the Federal Bureau of Investigation (FBI) does not have automated access to complete information from the States concerning persons prohibited from possessing or receiving a firearm under Federal or State law.

“(4) Nearly 21,000,000 criminal records are not accessible by NICS and millions of criminal records are missing critical data, such as arrest dispositions, due to data backlogs.

“(5) The primary cause of delay in NICS background checks is the lack of—

“(A) updates and available State criminal disposition records; and

“(B) automated access to information concerning persons prohibited from possessing or receiving a firearm because of mental illness, restraining orders, or misdemeanor convictions for domestic violence.

“(6) Automated access to this information can be improved by—

“(A) computerizing information relating to criminal history, criminal dispositions, mental illness, restraining orders, and misdemeanor convictions for domestic violence; or

“(B) making such information available to NICS in a usable format.

“(7) Helping States to automate these records will reduce delays for law-abiding gun purchasers.

“(8) On March 12, 2002, the senseless shooting, which took the lives of a priest and a parishioner at the Our Lady of Peace Church in Lynbrook, New York, brought attention to the need to improve information-sharing that would enable Federal and State law enforcement agencies to conduct a complete background check on a potential firearm purchaser. The man who committed this double murder had a prior disqualifying mental health commitment and a restraining order against him, but passed a Brady background check because NICS did not have the necessary information to determine that he was ineligible to purchase a firearm under Federal or State law.

“(9) On April 16, 2007, a student with a history of mental illness at the Virginia Polytechnic Institute and State University shot to death 32 students and faculty members, wounded 17 more, and then took his own life. The shooting, the deadliest campus shooting in United States history, renewed the need to improve information-sharing that would enable Federal and State law enforcement agencies to conduct complete background checks on potential firearms purchasers. In spite of a proven history of mental illness, the shooter was able to purchase the two firearms used in the shooting. Improved coordination between State and Federal authorities could have ensured that the shooter's disqualifying mental health information was available to NICS.

“SEC. 3. DEFINITIONS.

“As used in this Act, the following definitions shall apply:

“(1) COURT ORDER.—The term ‘court order’ includes a court order (as described in section 922(g)(8) of title 18, United States Code).

“(2) MENTAL HEALTH TERMS.—The terms ‘adjudicated as a mental defective’ and ‘committed to a mental institution’ have the same meanings as in section 922(g)(4) of title 18, United States Code.

“(3) MISDEMEANOR CRIME OF DOMESTIC VIOLENCE.—The term ‘misdemeanor crime of domestic violence’ has the meaning given the term in section 921(a)(33) of title 18, United States Code.

“TITLE I—TRANSMITTAL OF RECORDS

“SEC. 101. ENHANCEMENT OF REQUIREMENT THAT FEDERAL DEPARTMENTS AND AGENCIES PROVIDE RELEVANT INFORMATION TO THE NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM.

“(a) IN GENERAL.—[Amended section 103 of Pub. L. 103-159, set out below.]

“(b) PROVISION AND MAINTENANCE OF NICS RECORDS.—

“(1) DEPARTMENT OF HOMELAND SECURITY.—The Secretary of Homeland Security shall make available to the Attorney General—

“(A) records, updated not less than quarterly, which are relevant to a determination of whether a person is disqualified from possessing or receiving a firearm under subsection (g) or (n) of section 922 of title 18, United States Code, for use in background checks performed by the National Instant Criminal Background Check System; and

“(B) information regarding all the persons described in subparagraph (A) of this paragraph who have changed their status to a category not identified under section 922(g)(5) of title 18, United States Code, for removal, when applicable, from the National Instant Criminal Background Check System.

“(2) DEPARTMENT OF JUSTICE.—The Attorney General shall—

“(A) ensure that any information submitted to, or maintained by, the Attorney General under this section is kept accurate and confidential, as required by the laws, regulations, policies, or procedures governing the applicable record system;

“(B) provide for the timely removal and destruction of obsolete and erroneous names and information from the National Instant Criminal Background Check System; and

“(C) work with States to encourage the development of computer systems, which would permit electronic notification to the Attorney General when—

“(i) a court order has been issued, lifted, or otherwise removed by order of the court; or

“(ii) a person has been adjudicated as a mental defective or committed to a mental institution.

“(c) STANDARD FOR ADJUDICATIONS AND COMMITMENTS RELATED TO MENTAL HEALTH.—

“(1) IN GENERAL.—No department or agency of the Federal Government may provide to the Attorney General any record of an adjudication related to the mental health of a person or any commitment of a person to a mental institution if—

“(A) the adjudication or commitment, respectively, has been set aside or expunged, or the person has otherwise been fully released or discharged from all mandatory treatment, supervision, or monitoring;

“(B) the person has been found by a court, board, commission, or other lawful authority to no longer suffer from the mental health condition that was the basis of the adjudication or commitment, respectively, or has otherwise been found to be rehabilitated through any procedure available under law; or

“(C) the adjudication or commitment, respectively, is based solely on a medical finding of disability, without an opportunity for a hearing by a court, board, commission, or other lawful authority, and the person has not been adjudicated as a mental defective consistent with section 922(g)(4) of title 18, United States Code, except that nothing in this section or any other provision of law shall prevent a Federal department or agency from providing to the Attorney General any record demonstrating that a person was adjudicated to be not guilty by reason of insanity, or based on lack of mental responsibility, or found incompetent to stand trial, in any criminal case or under the Uniform Code of Military Justice.

“(2) TREATMENT OF CERTAIN ADJUDICATIONS AND COMMITMENTS.—

“(A) PROGRAM FOR RELIEF FROM DISABILITIES.—

“(i) IN GENERAL.—Each department or agency of the United States that makes any adjudication related to the mental health of a person or imposes any commitment to a mental institution, as described in subsection (d)(4) and (g)(4) of section 922 of title 18, United States Code, shall establish, not later than 120 days after the date of enactment of this Act [Jan. 8, 2008], a program that permits such a person to apply for relief from the disabilities imposed by such subsections.

“(ii) PROCESS.—Each application for relief submitted under the program required by this subparagraph shall be processed not later than 365 days after the receipt of the application. If a Federal department or agency fails to resolve an application for relief within 365 days for any reason, including a lack of appropriated funds, the department or agency shall be deemed for all purposes to have denied such request for relief without cause. Judicial review of any petitions brought under this clause shall be de novo.

“(iii) JUDICIAL REVIEW.—Relief and judicial review with respect to the program required by this subparagraph shall be available according to the standards prescribed in section 925(c) of title 18, United States Code. If the denial of a petition for relief has been reversed after such judicial review, the court shall award the prevailing party, other than the United States, a reasonable attorney’s fee for any and all proceedings in relation to attaining such relief, and the United States shall be liable for such fee. Such fee shall be based upon the prevailing rates awarded to public interest legal aid organizations in the relevant community.

“(B) RELIEF FROM DISABILITIES.—In the case of an adjudication related to the mental health of a person or a commitment of a person to a mental institution, a record of which may not be provided to the Attorney General under paragraph (1), including because of the absence of a finding described in subparagraph (C) of such paragraph, or from which a person has been granted relief under a program established under subparagraph (A) or (B), or because of a removal of a record under section 103(e)(1)(D) of the Brady Handgun Violence Prevention Act [Pub. L. 103–159, set out below], the adjudication or commitment, respectively, shall be deemed not to have occurred for purposes of subsections (d)(4) and (g)(4) of section 922 of title 18, United States Code. Any Federal agency that grants a person relief from disabilities under this subparagraph shall notify such person that the person is no longer prohibited under 922(d)(4) or 922(g)(4) of title 18, United States Code, on account of the relieved disability for which relief was granted pursuant to a proceeding conducted under this subparagraph, with respect to the acquisition, receipt, transfer, shipment, transportation, or possession of firearms.

“(3) NOTICE REQUIREMENT.—Effective 30 days after the date of enactment of this Act, any Federal department or agency that conducts proceedings to adjudicate a person as a mental defective under 922(d)(4) or 922(g)(4) of title 18, United States Code, shall provide both oral and written notice to the individual at the commencement of the adjudication process including—

“(A) notice that should the agency adjudicate the person as a mental defective, or should the person be committed to a mental institution, such adjudication, when final, or such commitment, will prohibit the individual from purchasing, possessing, receiving, shipping or transporting a firearm or ammunition under section 922(d)(4) or section 922(g)(4) of title 18, United States Code;

“(B) information about the penalties imposed for unlawful possession, receipt, shipment or transportation of a firearm under section 924(a)(2) of title 18, United States Code; and

“(C) information about the availability of relief from the disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, transportation, or possession of firearms.

“(4) EFFECTIVE DATE.—Except for paragraph (3), this subsection shall apply to names and other information provided before, on, or after the date of enactment of this Act. Any name or information provided in violation of this subsection (other than in violation of paragraph (3)) before, on, or after such date shall be removed from the National Instant Criminal Background Check System.

“SEC. 102. REQUIREMENTS TO OBTAIN WAIVER.

“(a) IN GENERAL.—Beginning 3 years after the date of the enactment of this Act [Jan. 8, 2008], a State shall be eligible to receive a waiver of the 10 percent matching requirement for National Criminal History Improvement Grants under the Crime Identification Technology Act of 1988 [1998] (42 U.S.C. 14601 [et seq.]) if the State provides at least 90 percent of the information described in subsection (c). The length of such a waiver shall not exceed 2 years.

“(b) STATE ESTIMATES.—

“(1) INITIAL STATE ESTIMATE.—

“(A) IN GENERAL.—To assist the Attorney General in making a determination under subsection (a) of this section, and under section 104, concerning the compliance of the States in providing information to the Attorney General for the purpose of receiving a waiver under subsection (a) of this section, or facing a loss of funds under section 104, by a date not later than 180 days after the date of the enactment of this Act [Jan. 8, 2008], each State shall provide the Attorney General with a reasonable estimate, as calculated by a method determined by the Attorney General and in accordance with section 104(d), of the number of the records described in subparagraph (C) applicable to such State that concern persons who are prohibited from possessing or receiving a firearm under subsection (g) or (n) of section 922 of title 18, United States Code.

“(B) FAILURE TO PROVIDE INITIAL ESTIMATE.—A State that fails to provide an estimate described in subparagraph (A) by the date required under such subparagraph shall be ineligible to receive any funds under section 103, until such date as it provides such estimate to the Attorney General.

“(C) RECORD DEFINED.—For purposes of subparagraph (A), a record is the following:

“(i) A record that identifies a person who has been convicted in any court of a crime punishable by imprisonment for a term exceeding 1 year.

“(ii) A record that identifies a person for whom an indictment has been returned for a crime punishable by imprisonment for a term exceeding 1 year that is valid under the laws of the State involved or who is a fugitive from justice, as of the date of the estimate, and for which a record of final disposition is not available.

“(iii) A record that identifies a person who is an unlawful user of, or addicted to a controlled substance (as such terms ‘unlawful user’ and ‘addicted’ are respectively defined in regulations implementing section 922(g)(3) of title 18, United States Code, as in effect on the date of the enactment of this Act) as demonstrated by arrests, convictions, and adjudications, and whose record is not protected from disclosure to the Attorney General under any provision of State or Federal law.

“(iv) A record that identifies a person who has been adjudicated as a mental defective or committed to a mental institution, consistent with section 922(g)(4) of title 18, United States Code, and whose record is not protected from disclosure to the Attorney General under any provision of State or Federal law.

“(v) A record that is electronically available and that identifies a person who, as of the date of

such estimate, is subject to a court order described in section 922(g)(8) of title 18, United States Code.

“(vi) A record that is electronically available and that identifies a person convicted in any court of a misdemeanor crime of domestic violence, as defined in section 921(a)(33) of title 18, United States Code.

“(2) SCOPE.—The Attorney General, in determining the compliance of a State under this section or section 104 for the purpose of granting a waiver or imposing a loss of Federal funds, shall assess the total percentage of records provided by the State concerning any event occurring within the prior 20 years, which would disqualify a person from possessing a firearm under subsection (g) or (n) of section 922 of title 18, United States Code.

“(3) CLARIFICATION.—Notwithstanding paragraph (2), States shall endeavor to provide the National Instant Criminal Background Check System with all records concerning persons who are prohibited from possessing or receiving a firearm under subsection (g) or (n) of section 922 of title 18, United States Code, regardless of the elapsed time since the disqualifying event.

“(c) ELIGIBILITY OF STATE RECORDS FOR SUBMISSION TO THE NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM.—

“(1) REQUIREMENTS FOR ELIGIBILITY.—

“(A) IN GENERAL.—From the information collected by a State, the State shall make electronically available to the Attorney General records relevant to a determination of whether a person is disqualified from possessing or receiving a firearm under subsection (g) or (n) of section 922 of title 18, United States Code, or applicable State law.

“(B) NICS UPDATES.—The State, on being made aware that the basis under which a record was made available under subparagraph (A) does not apply, or no longer applies, shall, as soon as practicable—

“(i) update, correct, modify, or remove the record from any database that the Federal or State government maintains and makes available to the National Instant Criminal Background Check System, consistent with the rules pertaining to that database; and

“(ii) notify the Attorney General that such basis no longer applies so that the record system in which the record is maintained is kept up to date.

The Attorney General upon receiving notice pursuant to clause (ii) shall ensure that the record in the National Instant Criminal Background Check System is updated, corrected, modified, or removed within 30 days of receipt.

“(C) CERTIFICATION.—To remain eligible for a waiver under subsection (a), a State shall certify to the Attorney General, not less than once during each 2-year period, that at least 90 percent of all records described in subparagraph (A) has been made electronically available to the Attorney General in accordance with subparagraph (A).

“(D) INCLUSION OF ALL RECORDS.—For purposes of this paragraph, a State shall identify and include all of the records described under subparagraph (A) without regard to the age of the record.

“(2) APPLICATION TO PERSONS CONVICTED OF MISDEMEANOR CRIMES OF DOMESTIC VIOLENCE.—The State shall make available to the Attorney General, for use by the National Instant Criminal Background Check System, records relevant to a determination of whether a person has been convicted in any court of a misdemeanor crime of domestic violence. With respect to records relating to such crimes, the State shall provide information specifically describing the offense and the specific section or subsection of the offense for which the defendant has been convicted and the relationship of the defendant to the victim in each case.

“(3) APPLICATION TO PERSONS WHO HAVE BEEN ADJUDICATED AS A MENTAL DEFECTIVE OR COMMITTED TO A

MENTAL INSTITUTION.—The State shall make available to the Attorney General, for use by the National Instant Criminal Background Check System, the name and other relevant identifying information of persons adjudicated as a mental defective or those committed to mental institutions to assist the Attorney General in enforcing section 922(g)(4) of title 18, United States Code.

“(d) PRIVACY PROTECTIONS.—For any information provided to the Attorney General for use by the National Instant Criminal Background Check System, relating to persons prohibited from possessing or receiving a firearm under section 922(g)(4) of title 18, United States Code, the Attorney General shall work with States and local law enforcement and the mental health community to establish regulations and protocols for protecting the privacy of information provided to the system. The Attorney General shall make every effort to meet with any mental health group seeking to express its views concerning these regulations and protocols and shall seek to develop regulations as expeditiously as practicable.

“(e) ATTORNEY GENERAL REPORT.—Not later than January 31 of each year, the Attorney General shall submit to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives a report on the progress of States in automating the databases containing the information described in subsection (b) and in making that information electronically available to the Attorney General pursuant to the requirements of subsection (c).

“SEC. 103. IMPLEMENTATION ASSISTANCE TO STATES.

“(a) AUTHORIZATION.—

“(1) IN GENERAL.—From amounts made available to carry out this section and subject to section 102(b)(1)(B), the Attorney General shall make grants to States and Indian tribal governments, in a manner consistent with the National Criminal History Improvement Program, which shall be used by the States and Indian tribal governments, in conjunction with units of local government and State and local courts, to establish or upgrade information and identification technologies for firearms eligibility determinations. Not less than 3 percent, and no more than 10 percent of each grant under this paragraph shall be used to maintain the relief from disabilities program in accordance with section 105.

“(2) GRANTS TO INDIAN TRIBES.—Up to 5 percent of the grant funding available under this section may be reserved for Indian tribal governments, including tribal judicial systems.

“(b) USE OF GRANT AMOUNTS.—Grants awarded to States or Indian tribes under this section may only be used to—

“(1) create electronic systems, which provide accurate and up-to-date information which is directly related to checks under the National Instant Criminal Background Check System (referred to in this section as ‘NICS’), including court disposition and corrections records;

“(2) assist States in establishing or enhancing their own capacities to perform NICS background checks;

“(3) supply accurate and timely information to the Attorney General concerning final dispositions of criminal records to databases accessed by NICS;

“(4) supply accurate and timely information to the Attorney General concerning the identity of persons who are prohibited from obtaining a firearm under section 922(g)(4) of title 18, United States Code, to be used by the Federal Bureau of Investigation solely to conduct NICS background checks;

“(5) supply accurate and timely court orders and records of misdemeanor crimes of domestic violence for inclusion in Federal and State law enforcement databases used to conduct NICS background checks;

“(6) collect and analyze data needed to demonstrate levels of State compliance with this Act; and

“(7) maintain the relief from disabilities program in accordance with section 105, but not less than 3

percent, and no more than 10 percent of each grant shall be used for this purpose.

“(c) ELIGIBILITY.—To be eligible for a grant under this section, a State shall certify, to the satisfaction of the Attorney General, that the State has implemented a relief from disabilities program in accordance with section 105.

“(d) CONDITION.—As a condition of receiving a grant under this section, a State shall specify the projects for which grant amounts will be used, and shall use such amounts only as specified. A State that violates this subsection shall be liable to the Attorney General for the full amount of the grant received under this section.

“(e) AUTHORIZATION OF APPROPRIATIONS.—

“(1) IN GENERAL.—There are authorized to be appropriated to carry out this section \$125,000,000 for fiscal year 2009, \$250,000,000 for fiscal year 2010, \$250,000,000 for fiscal year 2011, \$125,000,000 for fiscal year 2012, and \$125,000,000 for fiscal year 2013.

“(2) ALLOCATIONS.—For fiscal years 2009 and 2010, the Attorney General shall endeavor to allocate at least ½ of the authorized appropriations to those States providing more than 50 percent of the records required to be provided under sections 102 and 103. For fiscal years 2011, 2012, and 2013, the Attorney General shall endeavor to allocate at least ½ of the authorized appropriations to those States providing more than 70 percent of the records required to be provided under section 102 and 103. The allocations in this paragraph shall be subject to the discretion of the Attorney General, who shall have the authority to make adjustments to the distribution of the authorized appropriations as necessary to maximize incentives for State compliance.

“(f) USER FEE.—The Federal Bureau of Investigation shall not charge a user fee for background checks pursuant to section 922(b) of title 18, United States Code.

“SEC. 104. PENALTIES FOR NONCOMPLIANCE.

“(a) ATTORNEY GENERAL REPORT.—

“(1) IN GENERAL.—Not later than January 31 of each year, the Attorney General shall submit to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives a report on the progress of the States in automating the databases containing information described under sections 102 and 103, and in providing that information pursuant to the requirements of sections 102 and 103.

“(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Justice, such funds as may be necessary to carry out paragraph (1).

“(b) PENALTIES.—

“(1) DISCRETIONARY REDUCTION.—

“(A) During the 2-year period beginning 3 years after the date of enactment of this Act [Jan. 8, 2008], the Attorney General may withhold not more than 3 percent of the amount that would otherwise be allocated to a State under section 505 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3755) if the State provides less than 50 percent of the records required to be provided under sections 102 and 103.

“(B) During the 5-year period after the expiration of the period referred to in subparagraph (A), the Attorney General may withhold not more than 4 percent of the amount that would otherwise be allocated to a State under section 505 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3755) if the State provides less than 70 percent of the records required to be provided under sections 102 and 103.

“(2) MANDATORY REDUCTION.—After the expiration of the periods referred to in paragraph (1), the Attorney General shall withhold 5 percent of the amount that would otherwise be allocated to a State under section 505 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3755), if the State pro-

vides less than 90 percent of the records required to be provided under sections 102 and 103.

“(3) WAIVER BY ATTORNEY GENERAL.—The Attorney General may waive the applicability of paragraph (2) to a State if the State provides substantial evidence, as determined by the Attorney General, that the State is making a reasonable effort to comply with the requirements of sections 102 and 103, including an inability to comply due to court order or other legal restriction.

“(c) REALLOCATION.—Any funds that are not allocated to a State because of the failure of the State to comply with the requirements of this Act shall be reallocated to States that meet such requirements.

“(d) METHODOLOGY.—The method established to calculate the number of records to be reported, as set forth in section 102(b)(1)(A), and State compliance with the required level of reporting under sections 102 and 103 shall be determined by the Attorney General. The Attorney General shall calculate the methodology based on the total number of records to be reported from all subcategories of records, as described in section 102(b)(1)(C).

“SEC. 105. RELIEF FROM DISABILITIES PROGRAM REQUIRED AS CONDITION FOR PARTICIPATION IN GRANT PROGRAMS.

“(a) PROGRAM DESCRIBED.—A relief from disabilities program is implemented by a State in accordance with this section if the program—

“(1) permits a person who, pursuant to State law, has been adjudicated as described in subsection (g)(4) of section 922 of title 18, United States Code, or has been committed to a mental institution, to apply to the State for relief from the disabilities imposed by subsections (d)(4) and (g)(4) of such section by reason of the adjudication or commitment;

“(2) provides that a State court, board, commission, or other lawful authority shall grant the relief, pursuant to State law and in accordance with the principles of due process, if the circumstances regarding the disabilities referred to in paragraph (1), and the person's record and reputation, are such that the person will not be likely to act in a manner dangerous to public safety and that the granting of the relief would not be contrary to the public interest; and

“(3) permits a person whose application for the relief is denied to file a petition with the State court of appropriate jurisdiction for a de novo judicial review of the denial.

“(b) AUTHORITY TO PROVIDE RELIEF FROM CERTAIN DISABILITIES WITH RESPECT TO FIREARMS.—If, under a State relief from disabilities program implemented in accordance with this section, an application for relief referred to in subsection (a)(1) of this section is granted with respect to an adjudication or a commitment to a mental institution or based upon a removal of a record under section 102(c)(1)(B), the adjudication or commitment, as the case may be, is deemed not to have occurred for purposes of subsections (d)(4) and (g)(4) of section 922 of title 18, United States Code.

“SEC. 106. ILLEGAL IMMIGRANT GUN PURCHASE NOTIFICATION.

“(a) IN GENERAL.—Notwithstanding any other provision of law or of this Act, all records obtained by the National Instant Criminal Background Check system relevant to whether an individual is prohibited from possessing a firearm because such person is an alien illegally or unlawfully in the United States shall be made available to U.S. Immigration and Customs Enforcement.

“(b) REGULATIONS.—The Attorney General, at his or her discretion, shall promulgate guidelines relevant to what records relevant to illegal aliens shall be provided pursuant to the provisions of this Act.

“TITLE II—FOCUSING FEDERAL ASSISTANCE ON THE IMPROVEMENT OF RELEVANT RECORDS

“SEC. 201. CONTINUING EVALUATIONS.

“(a) EVALUATION REQUIRED.—The Director of the Bureau of Justice Statistics (referred to in this section as

the ‘Director’) shall study and evaluate the operations of the National Instant Criminal Background Check System. Such study and evaluation shall include compilations and analyses of the operations and record systems of the agencies and organizations necessary to support such System.

“(b) REPORT ON GRANTS.—Not later than January 31 of each year, the Director shall submit to Congress a report containing the estimates submitted by the States under section 102(b).

“(c) REPORT ON BEST PRACTICES.—Not later than January 31 of each year, the Director shall submit to Congress, and to each State participating in the National Criminal History Improvement Program, a report of the practices of the States regarding the collection, maintenance, automation, and transmittal of information relevant to determining whether a person is prohibited from possessing or receiving a firearm by Federal or State law, by the State or any other agency, or any other records relevant to the National Instant Criminal Background Check System, that the Director considers to be best practices.

“(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2009 through 2013 to complete the studies, evaluations, and reports required under this section.

“TITLE III—GRANTS TO STATE COURT SYSTEMS FOR THE IMPROVEMENT IN AUTOMATION AND TRANSMITTAL OF DISPOSITION RECORDS

“SEC. 301. DISPOSITION RECORDS AUTOMATION AND TRANSMITTAL IMPROVEMENT GRANTS.

“(a) GRANTS AUTHORIZED.—From amounts made available to carry out this section, the Attorney General shall make grants to each State, consistent with State plans for the integration, automation, and accessibility of criminal history records, for use by the State court system to improve the automation and transmittal of criminal history dispositions, records relevant to determining whether a person has been convicted of a misdemeanor crime of domestic violence, court orders, and mental health adjudications or commitments, to Federal and State record repositories in accordance with sections 102 and 103 and the National Criminal History Improvement Program.

“(b) GRANTS TO INDIAN TRIBES.—Up to 5 percent of the grant funding available under this section may be reserved for Indian tribal governments for use by Indian tribal judicial systems.

“(c) USE OF FUNDS.—Amounts granted under this section shall be used by the State court system only—

“(1) to carry out, as necessary, assessments of the capabilities of the courts of the State for the automation and transmission of arrest and conviction records, court orders, and mental health adjudications or commitments to Federal and State record repositories; and

“(2) to implement policies, systems, and procedures for the automation and transmission of arrest and conviction records, court orders, and mental health adjudications or commitments to Federal and State record repositories.

“(d) ELIGIBILITY.—To be eligible to receive a grant under this section, a State shall certify, to the satisfaction of the Attorney General, that the State has implemented a relief from disabilities program in accordance with section 105.

“(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Attorney General to carry out this section \$62,500,000 for fiscal year 2009, \$125,000,000 for fiscal year 2010, \$125,000,000 for fiscal year 2011, \$62,500,000 for fiscal year 2012, and \$62,500,000 for fiscal year 2013.

“TITLE IV—GAO AUDIT

“SEC. 401. GAO AUDIT.

“(a) IN GENERAL.—The Comptroller General of the United States shall conduct an audit of the expenditure

of all funds appropriated for criminal records improvement pursuant to section 106(b) of the Brady Handgun Violence Prevention Act (Public Law 103–159) [set out below] to determine if the funds were expended for the purposes authorized by the Act and how those funds were expended for those purposes or were otherwise expended.

“(b) REPORT.—Not later than 6 months after the date of enactment of this Act [Jan. 8, 2008], the Comptroller General shall submit a report to Congress describing the findings of the audit conducted pursuant to subsection (a).”

Pub. L. 103–159, title I, § 103, Nov. 30, 1993, 107 Stat. 1541, as amended by Pub. L. 103–322, title XXI, § 210603(b), Sept. 13, 1994, 103 Stat. 2074; Pub. L. 104–294, title VI, § 603(h), (i)(1), Oct. 11, 1996, 110 Stat. 3504; Pub. L. 110–180, title I, § 101(a), Jan. 8, 2008, 121 Stat. 2561, provided that:

“(a) DETERMINATION OF TIMETABLES.—Not later than 6 months after the date of enactment of this Act [Nov. 30, 1993], the Attorney General shall—

“(1) determine the type of computer hardware and software that will be used to operate the national instant criminal background check system and the means by which State criminal records systems and the telephone or electronic device of licensees will communicate with the national system;

“(2) investigate the criminal records system of each State and determine for each State a timetable by which the State should be able to provide criminal records on an on-line capacity basis to the national system; and

“(3) notify each State of the determinations made pursuant to paragraphs (1) and (2).

“(b) ESTABLISHMENT OF SYSTEM.—Not later than 60 months after the date of the enactment of this Act [Nov. 30, 1993], the Attorney General shall establish a national instant criminal background check system that any licensee may contact, by telephone or by other electronic means in addition to the telephone, for information, to be supplied immediately, on whether receipt of a firearm by a prospective transferee would violate section 922 of title 18, United States Code, or State law.

“(c) EXPEDITED ACTION BY THE ATTORNEY GENERAL.—The Attorney General shall expedite—

“(1) the upgrading and indexing of State criminal history records in the Federal criminal records system maintained by the Federal Bureau of Investigation;

“(2) the development of hardware and software systems to link State criminal history check systems into the national instant criminal background check system established by the Attorney General pursuant to this section; and

“(3) the current revitalization initiatives by the Federal Bureau of Investigation for technologically advanced fingerprint and criminal records identification.

“(d) NOTIFICATION OF LICENSEES.—On establishment of the system under this section, the Attorney General shall notify each licensee and the chief law enforcement officer of each State of the existence and purpose of the system and the means to be used to contact the system.

“(e) ADMINISTRATIVE PROVISIONS.—

“(1) AUTHORITY TO OBTAIN OFFICIAL INFORMATION.—

“(A) IN GENERAL.—Notwithstanding any other law, the Attorney General may secure directly from any department or agency of the United States such information on persons for whom receipt of a firearm would violate subsection (g) or (n) of section 922 of title 18, United States Code, or State law, as is necessary to enable the system to operate in accordance with this section.

“(B) REQUEST OF ATTORNEY GENERAL.—On request of the Attorney General, the head of such department or agency shall furnish electronic versions of the information described under subparagraph (A) to the system.

“(C) QUARTERLY SUBMISSION TO ATTORNEY GENERAL.—If a Federal department or agency under subparagraph (A) has any record of any person demonstrating that the person falls within one of the categories described in subsection (g) or (n) of section 922 of title 18, United States Code, the head of such department or agency shall, not less frequently than quarterly, provide the pertinent information contained in such record to the Attorney General.

“(D) INFORMATION UPDATES.—The Federal department or agency, on being made aware that the basis under which a record was made available under subparagraph (A) does not apply, or no longer applies, shall—

“(i) update, correct, modify, or remove the record from any database that the agency maintains and makes available to the Attorney General, in accordance with the rules pertaining to that database; and

“(ii) notify the Attorney General that such basis no longer applies so that the National Instant Criminal Background Check System is kept up to date.

The Attorney General upon receiving notice pursuant to clause (ii) shall ensure that the record in the National Instant Criminal Background Check System is updated, corrected, modified, or removed within 30 days of receipt.

“(E) ANNUAL REPORT.—The Attorney General shall submit an annual report to Congress that describes the compliance of each department or agency with the provisions of this paragraph.

“(2) OTHER AUTHORITY.—The Attorney General shall develop such computer software, design and obtain such telecommunications and computer hardware, and employ such personnel, as are necessary to establish and operate the system in accordance with this section.

“(f) WRITTEN REASONS PROVIDED ON REQUEST.—If the national instant criminal background check system determines that an individual is ineligible to receive a firearm and the individual requests the system to provide the reasons for the determination, the system shall provide such reasons to the individual, in writing, within 5 business days after the date of the request.

“(g) CORRECTION OF ERRONEOUS SYSTEM INFORMATION.—If the system established under this section informs an individual contacting the system that receipt of a firearm by a prospective transferee would violate subsection (g) or (n) of section 922 of title 18, United States Code, or State law, the prospective transferee may request the Attorney General to provide the prospective transferee with the reasons therefor. Upon receipt of such a request, the Attorney General shall immediately comply with the request. The prospective transferee may submit to the Attorney General information to correct, clarify, or supplement records of the system with respect to the prospective transferee. After receipt of such information, the Attorney General shall immediately consider the information, investigate the matter further, and correct all erroneous Federal records relating to the prospective transferee and give notice of the error to any Federal department or agency or any State that was the source of such erroneous records.

“(h) REGULATIONS.—After 90 days' notice to the public and an opportunity for hearing by interested parties, the Attorney General shall prescribe regulations to ensure the privacy and security of the information of the system established under this section.

“(i) PROHIBITION RELATING TO ESTABLISHMENT OF REGISTRATION SYSTEMS WITH RESPECT TO FIREARMS.—No department, agency, officer, or employee of the United States may—

“(1) require that any record or portion thereof generated by the system established under this section be recorded at or transferred to a facility owned, managed, or controlled by the United States or any State or political subdivision thereof; or

“(2) use the system established under this section to establish any system for the registration of firearms, firearm owners, or firearm transactions or dispositions, except with respect to persons, prohibited by section 922(g) or (n) of title 18, United States Code, or State law, from receiving a firearm.

“(j) DEFINITIONS.—As used in this section:

“(1) LICENSEE.—The term ‘licensee’ means a licensed importer (as defined in section 921(a)(9) of title 18, United States Code), a licensed manufacturer (as defined in section 921(a)(10) of that title), or a licensed dealer (as defined in section 921(a)(11) of that title).

“(2) OTHER TERMS.—The terms ‘firearm’, ‘handgun’, ‘licensed importer’, ‘licensed manufacturer’, and ‘licensed dealer’ have the meanings stated in section 921(a) of title 18, United States Code, as amended by subsection (a)(2).

“(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to enable the Attorney General to carry out this section.”

FUNDING FOR IMPROVEMENT OF CRIMINAL RECORDS

Section 106(b) of Pub. L. 103-159, as amended by Pub. L. 103-322, title XXI, §210603(b), Sept. 13, 1994, 103 Stat. 2074; Pub. L. 104-294, title VI, §603(i)(1), Oct. 11, 1996, 110 Stat. 3504, provided that:

“(1) GRANTS FOR THE IMPROVEMENT OF CRIMINAL RECORDS.—The Attorney General, through the Bureau of Justice Statistics, shall, subject to appropriations and with preference to States that as of the date of enactment of this Act [Nov. 30, 1993] have the lowest percent currency of case dispositions in computerized criminal history files, make a grant to each State to be used—

“(A) for the creation of a computerized criminal history record system or improvement of an existing system;

“(B) to improve accessibility to the national instant criminal background system; and

“(C) upon establishment of the national system, to assist the State in the transmittal of criminal records to the national system.

“(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for grants under paragraph (1) a total of \$200,000,000 for fiscal year 1994 and all fiscal years thereafter.”

GUN-FREE ZONE SIGNS

Section 1702(b)(5) of Pub. L. 101-647 provided that: “Federal, State, and local authorities are encouraged to cause signs to be posted around school zones giving warning of prohibition of the possession of firearms in a school zone.”

IDENTIFICATION OF FELONS AND OTHER PERSONS INELIGIBLE TO PURCHASE HANDGUNS

Section 6213 of Pub. L. 100-690 provided that:

“(a) IDENTIFICATION OF FELONS INELIGIBLE TO PURCHASE HANDGUNS.—The Attorney General shall develop a system for immediate and accurate identification of felons who attempt to purchase 1 or more firearms but are ineligible to purchase firearms by reason of section 922(g)(1) of title 18, United States Code. The system shall be accessible to dealers but only for the purpose of determining whether a potential purchaser is a convicted felon. The Attorney General shall establish a plan (including a cost analysis of the proposed system) for implementation of the system. In developing the system, the Attorney General shall consult with the Secretary of the Treasury, other Federal, State, and local law enforcement officials with expertise in the area, and other experts. The Attorney General shall begin implementation of the system 30 days after the report to the Congress as provided in subsection (b).

“(b) REPORT TO CONGRESS.—Not later than 1 year after the date of the enactment of this Act [Nov. 18, 1988], the Attorney General shall report to the Congress

a description of the system referred to in subsection (a) and a plan (including a cost analysis of the proposed system) for implementation of the system. Such report may include, if appropriate, recommendations for modifications of the system and legislation necessary in order to fully implement such system.

“(c) ADDITIONAL STUDY OF OTHER PERSONS INELIGIBLE TO PURCHASE FIREARMS.—The Attorney General in consultation with the Secretary of the Treasury shall conduct a study to determine if an effective method for immediate and accurate identification of other persons who attempt to purchase 1 or more firearms but are ineligible to purchase firearms by reason of section 922(g) of title 18, United States Code. In conducting the study, the Attorney General shall consult with the Secretary of the Treasury, other Federal, State, and local law enforcement officials with expertise in the area, and other experts. Such study shall be completed within 18 months after the date of the enactment of this Act [Nov. 18, 1988] and shall be submitted to the Congress and made available to the public. Such study may include, if appropriate, recommendations for legislation.

“(d) DEFINITIONS.—As used in this section, the terms ‘firearm’ and ‘dealer’ shall have the meanings given such terms in section 921(a) of title 18, United States Code.”

STUDIES TO IDENTIFY EQUIPMENT CAPABLE OF DISTINGUISHING SECURITY EXEMPLAR FROM OTHER METAL OBJECTS LIKELY TO BE CARRIED ON ONE'S PERSON

Section 2(e) of Pub. L. 100-649 provided that: “The Attorney General, the Secretary of the Treasury, and the Secretary of Transportation shall each conduct studies to identify available state-of-the-art equipment capable of detecting the Security Exemplar (as defined in section 922(p)(2)(C) of title 18, United States Code) and distinguishing the Security Exemplar from innocuous metal objects likely to be carried on one's person. Such studies shall be completed within 6 months after the date of the enactment of this Act [Nov. 10, 1988] and shall include a schedule providing for the installation of such equipment at the earliest practicable time at security checkpoints maintained or regulated by the agency conducting the study. Such equipment shall be installed in accordance with each schedule. In addition, such studies may include recommendations, where appropriate, concerning the use of secondary security equipment and procedures to enhance detection capability at security checkpoints.”

§ 923. Licensing

(a) No person shall engage in the business of importing, manufacturing, or dealing in firearms, or importing or manufacturing ammunition, until he has filed an application with and received a license to do so from the Attorney General. The application shall be in such form and contain only that information necessary to determine eligibility for licensing as the Attorney General shall by regulation prescribe and shall include a photograph and fingerprints of the applicant. Each applicant shall pay a fee for obtaining such a license, a separate fee being required for each place in which the applicant is to do business, as follows:

(1) If the applicant is a manufacturer—

(A) of destructive devices, ammunition for destructive devices or armor piercing ammunition, a fee of \$1,000 per year;

(B) of firearms other than destructive devices, a fee of \$50 per year; or

(C) of ammunition for firearms, other than ammunition for destructive devices or armor piercing ammunition, a fee of \$10 per year.

(2) If the applicant is an importer—

(A) of destructive devices, ammunition for destructive devices or armor piercing ammunition, a fee of \$1,000 per year; or

(B) of firearms other than destructive devices or ammunition for firearms other than destructive devices, or ammunition other than armor piercing ammunition, a fee of \$50 per year.

(3) If the applicant is a dealer—

(A) in destructive devices or ammunition for destructive devices, a fee of \$1,000 per year; or

(B) who is not a dealer in destructive devices, a fee of \$200 for 3 years, except that the fee for renewal of a valid license shall be \$90 for 3 years.

(b) Any person desiring to be licensed as a collector shall file an application for such license with the Attorney General. The application shall be in such form and contain only that information necessary to determine eligibility as the Attorney General shall by regulation prescribe. The fee for such license shall be \$10 per year. Any license granted under this subsection shall only apply to transactions in curios and relics.

(c) Upon the filing of a proper application and payment of the prescribed fee, the Attorney General shall issue to a qualified applicant the appropriate license which, subject to the provisions of this chapter and other applicable provisions of law, shall entitle the licensee to transport, ship, and receive firearms and ammunition covered by such license in interstate or foreign commerce during the period stated in the license. Nothing in this chapter shall be construed to prohibit a licensed manufacturer, importer, or dealer from maintaining and disposing of a personal collection of firearms, subject only to such restrictions as apply in this chapter to dispositions by a person other than a licensed manufacturer, importer, or dealer. If any firearm is so disposed of by a licensee within one year after its transfer from his business inventory into such licensee's personal collection or if such disposition or any other acquisition is made for the purpose of willfully evading the restrictions placed upon licensees by this chapter, then such firearm shall be deemed part of such licensee's business inventory, except that any licensed manufacturer, importer, or dealer who has maintained a firearm as part of a personal collection for one year and who sells or otherwise disposes of such firearm shall record the description of the firearm in a bound volume, containing the name and place of residence and date of birth of the transferee if the transferee is an individual, or the identity and principal and local places of business of the transferee if the transferee is a corporation or other business entity: *Provided*, That no other recordkeeping shall be required.

(d)(1) Any application submitted under subsection (a) or (b) of this section shall be approved if—

(A) the applicant is twenty-one years of age or over;

(B) the applicant (including, in the case of a corporation, partnership, or association, any individual possessing, directly or indirectly, the power to direct or cause the direction of

the management and policies of the corporation, partnership, or association) is not prohibited from transporting, shipping, or receiving firearms or ammunition in interstate or foreign commerce under section 922(g) and (n) of this chapter;

(C) the applicant has not willfully violated any of the provisions of this chapter or regulations issued thereunder;

(D) the applicant has not willfully failed to disclose any material information required, or has not made any false statement as to any material fact, in connection with his application;

(E) the applicant has in a State (i) premises from which he conducts business subject to license under this chapter or from which he intends to conduct such business within a reasonable period of time, or (ii) in the case of a collector, premises from which he conducts his collecting subject to license under this chapter or from which he intends to conduct such collecting within a reasonable period of time;

(F) the applicant certifies that—

(i) the business to be conducted under the license is not prohibited by State or local law in the place where the licensed premise is located;

(ii)(I) within 30 days after the application is approved the business will comply with the requirements of State and local law applicable to the conduct of the business; and

(II) the business will not be conducted under the license until the requirements of State and local law applicable to the business have been met; and

(iii) that the applicant has sent or delivered a form to be prescribed by the Attorney General, to the chief law enforcement officer of the locality in which the premises are located, which indicates that the applicant intends to apply for a Federal firearms license; and

(G) in the case of an application to be licensed as a dealer, the applicant certifies that secure gun storage or safety devices will be available at any place in which firearms are sold under the license to persons who are not licensees (subject to the exception that in any case in which a secure gun storage or safety device is temporarily unavailable because of theft, casualty loss, consumer sales, backorders from a manufacturer, or any other similar reason beyond the control of the licensee, the dealer shall not be considered to be in violation of the requirement under this subparagraph to make available such a device).

(2) The Attorney General must approve or deny an application for a license within the 60-day period beginning on the date it is received. If the Attorney General fails to act within such period, the applicant may file an action under section 1361 of title 28 to compel the Attorney General to act. If the Attorney General approves an applicant's application, such applicant shall be issued a license upon the payment of the prescribed fee.

(e) The Attorney General may, after notice and opportunity for hearing, revoke any license issued under this section if the holder of such li-

cense has willfully violated any provision of this chapter or any rule or regulation prescribed by the Attorney General under this chapter or fails to have secure gun storage or safety devices available at any place in which firearms are sold under the license to persons who are not licensees (except that in any case in which a secure gun storage or safety device is temporarily unavailable because of theft, casualty loss, consumer sales, backorders from a manufacturer, or any other similar reason beyond the control of the licensee, the dealer shall not be considered to be in violation of the requirement to make available such a device). The Attorney General may, after notice and opportunity for hearing, revoke the license of a dealer who willfully transfers armor piercing ammunition. The Secretary's¹ action under this subsection may be reviewed only as provided in subsection (f) of this section.

(f)(1) Any person whose application for a license is denied and any holder of a license which is revoked shall receive a written notice from the Attorney General stating specifically the grounds upon which the application was denied or upon which the license was revoked. Any notice of a revocation of a license shall be given to the holder of such license before the effective date of the revocation.

(2) If the Attorney General denies an application for, or revokes, a license, he shall, upon request by the aggrieved party, promptly hold a hearing to review his denial or revocation. In the case of a revocation of a license, the Attorney General shall upon the request of the holder of the license stay the effective date of the revocation. A hearing held under this paragraph shall be held at a location convenient to the aggrieved party.

(3) If after a hearing held under paragraph (2) the Attorney General decides not to reverse his decision to deny an application or revoke a license, the Attorney General shall give notice of his decision to the aggrieved party. The aggrieved party may at any time within sixty days after the date notice was given under this paragraph file a petition with the United States district court for the district in which he resides or has his principal place of business for a de novo judicial review of such denial or revocation. In a proceeding conducted under this subsection, the court may consider any evidence submitted by the parties to the proceeding whether or not such evidence was considered at the hearing held under paragraph (2). If the court decides that the Attorney General was not authorized to deny the application or to revoke the license, the court shall order the Attorney General to take such action as may be necessary to comply with the judgment of the court.

(4) If criminal proceedings are instituted against a licensee alleging any violation of this chapter or of rules or regulations prescribed under this chapter, and the licensee is acquitted of such charges, or such proceedings are terminated, other than upon motion of the Government before trial upon such charges, the Attorney General shall be absolutely barred from denying or revoking any license granted under

¹ So in original. Probably should be "Attorney General's".

this chapter where such denial or revocation is based in whole or in part on the facts which form the basis of such criminal charges. No proceedings for the revocation of a license shall be instituted by the Attorney General more than one year after the filing of the indictment or information.

(g)(1)(A) Each licensed importer, licensed manufacturer, and licensed dealer shall maintain such records of importation, production, shipment, receipt, sale, or other disposition of firearms at his place of business for such period, and in such form, as the Attorney General may by regulations prescribe. Such importers, manufacturers, and dealers shall not be required to submit to the Attorney General reports and information with respect to such records and the contents thereof, except as expressly required by this section. The Attorney General, when he has reasonable cause to believe a violation of this chapter has occurred and that evidence thereof may be found on such premises, may, upon demonstrating such cause before a Federal magistrate judge and securing from such magistrate judge a warrant authorizing entry, enter during business hours the premises (including places of storage) of any licensed firearms importer, licensed manufacturer, licensed dealer, licensed collector, or any licensed importer or manufacturer of ammunition, for the purpose of inspecting or examining—

(i) any records or documents required to be kept by such licensed importer, licensed manufacturer, licensed dealer, or licensed collector under this chapter or rules or regulations under this chapter, and

(ii) any firearms or ammunition kept or stored by such licensed importer, licensed manufacturer, licensed dealer, or licensed collector, at such premises.

(B) The Attorney General may inspect or examine the inventory and records of a licensed importer, licensed manufacturer, or licensed dealer without such reasonable cause or warrant—

(i) in the course of a reasonable inquiry during the course of a criminal investigation of a person or persons other than the licensee;

(ii) for ensuring compliance with the record keeping requirements of this chapter—

(I) not more than once during any 12-month period; or

(II) at any time with respect to records relating to a firearm involved in a criminal investigation that is traced to the licensee; or

(iii) when such inspection or examination may be required for determining the disposition of one or more particular firearms in the course of a bona fide criminal investigation.

(C) The Attorney General may inspect the inventory and records of a licensed collector without such reasonable cause or warrant—

(i) for ensuring compliance with the record keeping requirements of this chapter not more than once during any twelve-month period; or

(ii) when such inspection or examination may be required for determining the disposition of one or more particular firearms in the course of a bona fide criminal investigation.

(D) At the election of a licensed collector, the annual inspection of records and inventory per-

mitted under this paragraph shall be performed at the office of the Attorney General designated for such inspections which is located in closest proximity to the premises where the inventory and records of such licensed collector are maintained. The inspection and examination authorized by this paragraph shall not be construed as authorizing the Attorney General to seize any records or other documents other than those records or documents constituting material evidence of a violation of law. If the Attorney General seizes such records or documents, copies shall be provided to the licensee within a reasonable time. The Attorney General may make available to any Federal, State, or local law enforcement agency any information which he may obtain by reason of this chapter with respect to the identification of persons prohibited from purchasing or receiving firearms or ammunition who have purchased or received firearms or ammunition, together with a description of such firearms or ammunition, and he may provide information to the extent such information may be contained in the records required to be maintained by this chapter, when so requested by any Federal, State, or local law enforcement agency.

(2) Each licensed collector shall maintain in a bound volume the nature of which the Attorney General may by regulations prescribe, records of the receipt, sale, or other disposition of firearms. Such records shall include the name and address of any person to whom the collector sells or otherwise disposes of a firearm. Such collector shall not be required to submit to the Attorney General reports and information with respect to such records and the contents thereof, except as expressly required by this section.

(3)(A) Each licensee shall prepare a report of multiple sales or other dispositions whenever the licensee sells or otherwise disposes of, at one time or during any five consecutive business days, two or more pistols, or revolvers, or any combination of pistols and revolvers totalling two or more, to an unlicensed person. The report shall be prepared on a form specified by the Attorney General and forwarded to the office specified thereon and to the department of State police or State law enforcement agency of the State or local law enforcement agency of the local jurisdiction in which the sale or other disposition took place, not later than the close of business on the day that the multiple sale or other disposition occurs.

(B) Except in the case of forms and contents thereof regarding a purchaser who is prohibited by subsection (g) or (n) of section 922 of this title from receipt of a firearm, the department of State police or State law enforcement agency or local law enforcement agency of the local jurisdiction shall not disclose any such form or the contents thereof to any person or entity, and shall destroy each such form and any record of the contents thereof no more than 20 days from the date such form is received. No later than the date that is 6 months after the effective date of this subparagraph, and at the end of each 6-month period thereafter, the department of State police or State law enforcement agency or local law enforcement agency of the local jurisdiction shall certify to the Attorney General

of the United States that no disclosure contrary to this subparagraph has been made and that all forms and any record of the contents thereof have been destroyed as provided in this subparagraph.

(4) Where a firearms or ammunition business is discontinued and succeeded by a new licensee, the records required to be kept by this chapter shall appropriately reflect such facts and shall be delivered to the successor. Where discontinuance of the business is absolute, such records shall be delivered within thirty days after the business discontinuance to the Attorney General. However, where State law or local ordinance requires the delivery of records to other responsible authority, the Attorney General may arrange for the delivery of such records to such other responsible authority.

(5)(A) Each licensee shall, when required by letter issued by the Attorney General, and until notified to the contrary in writing by the Attorney General, submit on a form specified by the Attorney General, for periods and at the times specified in such letter, all record information required to be kept by this chapter or such lesser record information as the Attorney General in such letter may specify.

(B) The Attorney General may authorize such record information to be submitted in a manner other than that prescribed in subparagraph (A) of this paragraph when it is shown by a licensee that an alternate method of reporting is reasonably necessary and will not unduly hinder the effective administration of this chapter. A licensee may use an alternate method of reporting if the licensee describes the proposed alternate method of reporting and the need therefor in a letter application submitted to the Attorney General, and the Attorney General approves such alternate method of reporting.

(6) Each licensee shall report the theft or loss of a firearm from the licensee's inventory or collection, within 48 hours after the theft or loss is discovered, to the Attorney General and to the appropriate local authorities.

(7) Each licensee shall respond immediately to, and in no event later than 24 hours after the receipt of, a request by the Attorney General for information contained in the records required to be kept by this chapter as may be required for determining the disposition of 1 or more firearms in the course of a bona fide criminal investigation. The requested information shall be provided orally or in writing, as the Attorney General may require. The Attorney General shall implement a system whereby the licensee can positively identify and establish that an individual requesting information via telephone is employed by and authorized by the agency to request such information.

(h) Licenses issued under the provisions of subsection (c) of this section shall be kept posted and kept available for inspection on the premises covered by the license.

(i) Licensed importers and licensed manufacturers shall identify by means of a serial number engraved or cast on the receiver or frame of the weapon, in such manner as the Attorney General shall by regulations prescribe, each firearm imported or manufactured by such importer or manufacturer.

(j) A licensed importer, licensed manufacturer, or licensed dealer may, under rules or regulations prescribed by the Attorney General, conduct business temporarily at a location other than the location specified on the license if such temporary location is the location for a gun show or event sponsored by any national, State, or local organization, or any affiliate of any such organization devoted to the collection, competitive use, or other sporting use of firearms in the community, and such location is in the State which is specified on the license. Records of receipt and disposition of firearms transactions conducted at such temporary location shall include the location of the sale or other disposition and shall be entered in the permanent records of the licensee and retained on the location specified on the license. Nothing in this subsection shall authorize any licensee to conduct business in or from any motorized or towed vehicle. Notwithstanding the provisions of subsection (a) of this section, a separate fee shall not be required of a licensee with respect to business conducted under this subsection. Any inspection or examination of inventory or records under this chapter by the Attorney General at such temporary location shall be limited to inventory consisting of, or records relating to, firearms held or disposed at such temporary location. Nothing in this subsection shall be construed to authorize the Attorney General to inspect or examine the inventory or records of a licensed importer, licensed manufacturer, or licensed dealer at any location other than the location specified on the license. Nothing in this subsection shall be construed to diminish in any manner any right to display, sell, or otherwise dispose of firearms or ammunition, which is in effect before the date of the enactment of the Firearms Owners' Protection Act, including the right of a licensee to conduct "curios or relics" firearms transfers and business away from their business premises with another licensee without regard as to whether the location of where the business is conducted is located in the State specified on the license of either licensee.

(k) Licensed importers and licensed manufacturers shall mark all armor piercing projectiles and packages containing such projectiles for distribution in the manner prescribed by the Attorney General by regulation. The Attorney General shall furnish information to each dealer licensed under this chapter defining which projectiles are considered armor piercing ammunition as defined in section 921(a)(17)(B).

(l) The Attorney General shall notify the chief law enforcement officer in the appropriate State and local jurisdictions of the names and addresses of all persons in the State to whom a firearms license is issued.

(Added Pub. L. 90-351, title IV, §902, June 19, 1968, 82 Stat. 231; amended Pub. L. 90-618, title I, §102, Oct. 22, 1968, 82 Stat. 1221; Pub. L. 92-377, title I, §165(b), Dec. 21, 1982, 96 Stat. 1923; Pub. L. 99-308, §103, May 19, 1986, 100 Stat. 453; Pub. L. 99-360, §1(c), July 8, 1986, 100 Stat. 766; Pub. L. 99-408, §§3-7, Aug. 28, 1986, 100 Stat. 921; Pub. L. 100-690, title VII, §7060(d), Nov. 18, 1988, 102 Stat. 4404; Pub. L. 101-647, title XXII, §2203(a), title XXXV, §3525, Nov. 29, 1990, 104 Stat. 4857, 4924; Pub. L. 101-650, title III, §321, Dec. 1, 1990, 104

Stat. 5117; Pub. L. 103-159, title II, §201, title III, §303, Nov. 30, 1993, 107 Stat. 1544, 1545; Pub. L. 103-322, title XI, §§110102(d), 110103(d), 110105(2), 110301(a), 110302-110307, title XXXIII, §330011(i), Sept. 13, 1994, 108 Stat. 1998-2000, 2012-2014, 2145; Pub. L. 104-208, div. A, title I, §101(f) [title I, §118], Sept. 30, 1996, 110 Stat. 3009-314, 3009-326; Pub. L. 104-294, title VI, §603(j)(1), (k), (l), Oct. 11, 1996, 110 Stat. 3504, 3505; Pub. L. 105-277, div. A, §101(b) [title I, §119(b), (c)], Oct. 21, 1998, 112 Stat. 2681-50, 2681-69; Pub. L. 107-296, title XI, §1112(f)(5), (6), Nov. 25, 2002, 116 Stat. 2276.)

REFERENCES IN TEXT

The effective date of this subparagraph, referred to in subsec. (g)(3)(B), is the date of enactment of Pub. L. 103-159, which was approved Nov. 30, 1993.

The date of the enactment of the Firearms Owners' Protection Act, referred to in subsec. (j), is the date of enactment of Pub. L. 99-308, which was approved May 19, 1986.

AMENDMENTS

2002—Subsecs. (a) to (g), (i) to (k). Pub. L. 107-296, §1112(f)(6), substituted "Attorney General" for "Secretary" wherever appearing.

Subsec. (l). Pub. L. 107-296, §1112(f)(5), substituted "Attorney General" for "Secretary of the Treasury".

1998—Subsec. (d)(1)(G). Pub. L. 105-277, §101(b) [title I, §119(b)], added subpar. (G).

Subsec. (e). Pub. L. 105-277, §101(b) [title I, §119(c)], inserted before period at end of first sentence "or fails to have secure gun storage or safety devices available at any place in which firearms are sold under the license to persons who are not licensees (except that in any case in which a secure gun storage or safety device is temporarily unavailable because of theft, casualty loss, consumer sales, backorders from a manufacturer, or any other similar reason beyond the control of the licensee, the dealer shall not be considered to be in violation of the requirement to make available such a device)".

1996—Subsec. (g)(1)(B)(ii). Pub. L. 104-294, §603(k), substituted "; or" for period at end of subcl. (II) and realigned margins.

Subsec. (g)(3)(A). Pub. L. 104-294, §603(j)(1), amended directory language of Pub. L. 103-159, §201(1). See 1993 Amendment note below.

Subsec. (j). Pub. L. 104-208 substituted for period at end of "including the right of a licensee to conduct 'curios or relics' firearms transfers and business away from their business premises with another licensee without regard as to whether the location of where the business is conducted is located in the State specified on the license of either licensee."

Subsec. (l). Pub. L. 104-294, §603(l), redesignated last subsec. as subsec. (l) and realigned margins.

1994—Subsec. (a). Pub. L. 103-322, §110301(a), inserted "and shall include a photograph and fingerprints of the applicant" after "regulation prescribe" in introductory provisions.

Subsec. (a)(3)(B). Pub. L. 103-322, §330011(i), amended directory language of Pub. L. 101-647, §3525. See 1990 Amendment note below.

Subsec. (d)(1)(F). Pub. L. 103-322, §110302, added subpar. (F).

Subsec. (d)(2). Pub. L. 103-322, §110303, substituted "60-day period" for "forty-five-day period".

Subsec. (g)(1)(B)(ii). Pub. L. 103-322, §110304, amended cl. (ii) generally. Prior to amendment, cl. (ii) read as follows: "for ensuring compliance with the record keeping requirements of this chapter not more than once during any twelve-month period; or".

Subsec. (g)(6). Pub. L. 103-322, §110305, added par. (6).

Subsec. (g)(7). Pub. L. 103-322, §110306, added par. (7).

Subsec. (i). Pub. L. 103-322, §110103(d), which inserted at end "A large capacity ammunition feeding device manufactured after the date of the enactment of this

sentence shall be identified by a serial number that clearly shows that the device was manufactured or imported after the effective date of this subsection, and such other identification as the Secretary may by regulation prescribe.", was repealed by Pub. L. 103-322, §110105(2). See Effective and Termination Dates of 1994 Amendment note below.

Pub. L. 103-322, §110102(d), which inserted penultimate sentence which read as follows: "The serial number of any semiautomatic assault weapon manufactured after the date of the enactment of this sentence shall clearly show the date on which the weapon was manufactured.", was repealed by Pub. L. 103-322, §110105(2). See Effective and Termination Dates of 1994 Amendment note below.

Subsec. (l). Pub. L. 103-322, §110307, which directed the amendment of this section by adding subsec. (l) at end, was executed by adding subsec. (l) at end to reflect the probable intent of Congress.

1993—Subsec. (a)(3)(A). Pub. L. 103-159, §303(1), inserted "or" at end of subpar. (A).

Subsec. (a)(3)(B). Pub. L. 103-159, §303(2), (3), substituted "who is not a dealer in destructive devices, a fee of \$200 for 3 years, except that the fee for renewal of a valid license shall be \$90 for 3 years." for "who is a pawnbroker dealing in firearms other than destructive devices, a fee of \$25 per year; or".

Subsec. (a)(3)(C). Pub. L. 103-159, §303(4), struck out subpar. (C) which read as follows: "who is not a dealer in destructive devices or a pawnbroker, a fee of \$10 per year."

Subsec. (g)(3). Pub. L. 103-159, §201, as amended by Pub. L. 104-294, §603(j)(1), designated existing provisions as subpar. (A), inserted "and to the department of State police or State law enforcement agency of the State or local law enforcement agency of the local jurisdiction in which the sale or other disposition took place," after "thereon", and added subpar. (B).

1990—Subsec. (a)(3)(B). Pub. L. 101-647, §3525, as amended by Pub. L. 103-322, §330011(i), inserted a comma after "devices".

Subsec. (d)(1)(B). Pub. L. 101-647, §2203(a), substituted "(n)" for "(h)".

1988—Subsec. (a). Pub. L. 100-690, §7060(d)(1), struck out period after "licensing" in introductory provisions.

Subsec. (f)(3). Pub. L. 100-690, §7060(d)(2), struck out the period that followed a period after "paragraph (2)".

1986—Subsec. (a). Pub. L. 99-308, §103(1), amended first sentence generally and substituted "only that information necessary to determine eligibility for licensing." for "such information" in second sentence. Prior to amendment, first sentence read as follows: "No person shall engage in business as a firearms or ammunition importer, manufacturer, or dealer until he has filed an application with, and received a license to do so from, the Secretary."

Subsec. (a)(1)(A). Pub. L. 99-408, §3, in amending subpar. (A) generally, substituted "ammunition for destructive devices or armor piercing ammunition" for "or ammunition for destructive devices".

Subsec. (a)(1)(C). Pub. L. 99-408, §4, in amending subpar. (C) generally, substituted "other than ammunition for destructive devices or armor piercing ammunition" for "other than destructive devices".

Subsec. (a)(2). Pub. L. 99-408, §5, amended subpars. (A) and (B) generally. Prior to amendment, subpars. (A) and (B) read as follows:

"(A) of destructive devices or ammunition for destructive devices, a fee of \$1,000 per year; or

"(B) of firearms other than destructive devices or ammunition for firearms other than destructive devices, a fee of \$50 per year."

Subsec. (a)(3)(B). Pub. L. 99-308, §103(2), struck out "or ammunition for firearms other than destructive devices," after "destructive devices".

Subsec. (b). Pub. L. 99-308, §103(3), substituted "only that information necessary to determine eligibility" for "such information".

Subsec. (c). Pub. L. 99-360 inserted provision which required any licensed manufacturer, importer, or deal-

er who has maintained a firearm as part of a personal collection for one year and sells or otherwise disposes of such firearm to record the description of the firearm in a bound volume, specified other information to be recorded, and provided that no other recordkeeping be required.

Pub. L. 99-308, §103(4), inserted provision that nothing in this chapter be construed to prohibit a licensed manufacturer, importer, or dealer from maintaining and disposing of a personal collection of firearms subject to such restrictions as apply in this chapter to other persons, and provision specifying circumstances under which such disposition or any other acquisition shall result in such firearms being deemed part of the licensee's business inventory.

Subsec. (e). Pub. L. 99-408, §6, inserted provisions relating to licenses of dealers willfully transferring armor piercing ammunition.

Pub. L. 99-308, §103(5), inserted "willfully" before "violated".

Subsec. (f)(3). Pub. L. 99-308, §103(6)(A), inserted "de novo" before "judicial review" in second sentence and "whether or not such evidence was considered at the hearing held under paragraph (2)." after "to the proceeding" in third sentence.

Subsec. (f)(4). Pub. L. 99-308, §103(6)(B), added par. (4).

Subsec. (g). Pub. L. 99-308, §103(7), amended subsec. (g) generally. Prior to amendment, subsec. (g) read as follows: "Each licensed importer, licensed manufacturer, licensed dealer, and licensed collector shall maintain such records of importation, production, shipment, receipt, sale, or other disposition, of firearms and ammunition except .22 caliber rimfire ammunition at such place, for such period, and in such form as the Secretary may by regulations prescribe. Such importers, manufacturers, dealers, and collectors shall make such records available for inspection at all reasonable times, and shall submit to the Secretary such reports and information with respect to such records and the contents thereof as he shall by regulations prescribe. The Secretary may enter during business hours the premises (including places of storage) of any firearms or ammunition importer, manufacturer, dealer, or collector for the purpose of inspecting or examining (1) any records or documents required to be kept by such importer, manufacturer, dealer, or collector under the provisions of this chapter or regulations issued under this chapter, and (2) any firearms or ammunition kept or stored by such importer, manufacturer, dealer, or collector at such premises. Upon the request of any State or any political subdivision thereof, the Secretary may make available to such State or any political subdivision thereof, any information which he may obtain by reason of the provisions of this chapter with respect to the identification of persons within such State or political subdivision thereof, who have purchased or received firearms or ammunition, together with a description of such firearms or ammunition."

Subsec. (j). Pub. L. 99-308, §103(8), amended subsec. (j) generally. Prior to amendment, subsec. (j) read as follows: "This section shall not apply to anyone who engages only in hand loading, reloading, or custom loading ammunition for his own firearm, and who does not hand load, reload, or custom load ammunition for others."

Subsec. (k). Pub. L. 99-408, §7, added subsec. (k).

1982—Subsec. (g). Pub. L. 97-377 inserted "except .22 caliber rimfire ammunition" after "and ammunition". The amendment by Pub. L. 97-377, which purported to amend subsec. (9), was executed instead to subsec. (g) as the probable intent of Congress because this section does not contain a subsec. (9).

1968—Subsec. (a). Pub. L. 90-618 struck out "be required to" after "Each applicant shall".

Subsec. (a)(1). Pub. L. 90-618 inserted "the applicant is" after "If" in text preceding subpar. (A), substituted "or ammunition for destructive devices," for "and/or ammunition" in subpar. (A), decreased the fee from \$500 per year to \$50 per year in subpar. (B), and added subpar. (C).

Subsec. (a)(2). Pub. L. 90-618 inserted "the applicant is" after "If" in text preceding subpar. (A), substituted "or ammunition for destructive devices," for "and/or ammunition" in subpar. (A), and inserted provision for ammunition for firearms other than destructive devices and decreased the fee from \$500 per year to \$50 per year in subpar. (B).

Subsec. (a)(3). Pub. L. 90-618 inserted "the applicant is" after "If" in text preceding subpar. (A), substituted "in destructive devices or ammunition for destructive devices," for "of destructive devices and/or ammunition" in subpar. (A), and inserted provision for ammunition for firearms other than destructive devices and decreased the fee from \$250 per year to \$25 per year in subpar. (B).

Subsecs. (b), (c). Pub. L. 90-618 added subsec. (b), redesignated former subsec. (b) as (c) and made mandatory the requirement that the Secretary issue the appropriate license to a qualified applicant. Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 90-618 redesignated former subsec. (c) as (d)(1), made changes in phraseology, inserted references to section 922(g) and (h) of this chapter in subsec. (d)(1)(B) and to applicants engaged in collecting in subsec. (d)(1)(E)(ii), and added subsec. (d)(2). Former subsec. (d) redesignated (g).

Subsecs. (e), (f). Pub. L. 90-618 added subsecs. (e) and (f) and redesignated former subsecs. (e) and (f) as (h) and (i), respectively.

Subsec. (g). Pub. L. 90-618 redesignated former subsec. (d) as (g) and added licensed collectors to the enumerated list of licensees subject to the provisions of this section.

Subsec. (h). Pub. L. 90-618 redesignated former subsec. (e) as (h) and substituted "subsection (c)" for "subsection (b)".

Subsec. (i). Pub. L. 90-618 redesignated former subsec. (f) as (i) and inserted ", by means of a serial number engraved or cast on the receiver or frame of the weapon," after "shall identify".

Subsec. (j). Pub. L. 90-618 added subsec. (j).

CHANGE OF NAME

Words "magistrate judge" substituted for "magistrate" wherever appearing in subsec. (g)(1)(A) pursuant to section 321 of Pub. L. 101-650, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-296 effective 60 days after Nov. 25, 2002, see section 4 of Pub. L. 107-296, set out as an Effective Date note under section 101 of Title 6, Domestic Security.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-277, effective 180 days after Oct. 21, 1998, see section 101(b) [title I, §119(e)] of Pub. L. 105-277, set out as a note under section 921 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Section 603(j)(2) of Pub. L. 104-294 provided that: "The amendment made by paragraph (1) [amending this section] shall take effect as if the amendment had been included in the Act referred to in paragraph (1) [Pub. L. 103-159] on the date of the enactment of such Act [Nov. 30, 1993]."

EFFECTIVE AND TERMINATION DATES OF 1994 AMENDMENT

Amendment by sections 110102(d) and 110103(d) of Pub. L. 103-322 repealed 10 years after Sept. 13, 1994, see section 110105(2) of Pub. L. 103-322, formerly set out as a note under section 921 of this title.

Section 330011(i) of Pub. L. 103-322 provided that the amendment made by that section is effective as of the date on which section 3525 of Pub. L. 101-647 took effect.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by sections 3 to 5 of Pub. L. 99-408 effective first day of first calendar month beginning more than ninety days after Aug. 28, 1986, and amendment by sections 6 and 7 of Pub. L. 99-408 effective Aug. 28, 1986, see section 9 of Pub. L. 99-408, set out as a note under section 921 of this title.

Amendment by Pub. L. 99-360 effective on date on which amendment of this section by Firearms Owners' Protection Act, Pub. L. 99-308, became effective, see section 2 of Pub. L. 99-360, set out as a note under section 921 of this title.

Amendment by section 103(1)–(6)(A), (7), (8) of Pub. L. 99-308 effective 180 days after May 19, 1986, and amendment by section 103(6)(B) of Pub. L. 99-308 applicable to any action, petition, or appellate proceeding pending on May 19, 1986, see section 110(a), (b) of Pub. L. 99-308, set out as a note under section 921 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-618 effective Dec. 16, 1968, see section 105 of Pub. L. 90-618, set out as a note under section 921 of this title.

STATUTORY CONSTRUCTION; EVIDENCE

Pub. L. 105-277, div. A, §101(b) [title I, §119(d)], Oct. 21, 1998, 112 Stat. 2681-50, 2681-70, provided that:

“(1) STATUTORY CONSTRUCTION.—Nothing in the amendments made by this section [amending this section and section 921 of this title] shall be construed—

“(A) as creating a cause of action against any firearms dealer or any other person for any civil liability; or

“(B) as establishing any standard of care.

“(2) EVIDENCE.—Notwithstanding any other provision of law, evidence regarding compliance or noncompliance with the amendments made by this section shall not be admissible as evidence in any proceeding of any court, agency, board, or other entity.”

FUNDING FOR BUREAU NOT AUTHORIZED FOR DISCLOSURE OF DATA

Pub. L. 111-117, div. B, title II, Dec. 16, 2009, 123 Stat. 3128, provided in part: “That, beginning in fiscal year 2010 and thereafter, no funds appropriated under this or any other Act may be used to disclose part or all of the contents of the Firearms Trace System database maintained by the National Trace Center of the Bureau of Alcohol, Tobacco, Firearms and Explosives or any information required to be kept by licensees pursuant to section 923(g) of title 18, United States Code, or required to be reported pursuant to paragraphs (3) and (7) of such section 923(g), except to: (1) a Federal, State, local, or tribal law enforcement agency, or a Federal, State, or local prosecutor; or (2) a foreign law enforcement agency solely in connection with or for use in a criminal investigation or prosecution; or (3) a Federal agency for a national security or intelligence purpose; unless such disclosure of such data to any of the entities described in (1), (2) or (3) of this proviso would compromise the identity of any undercover law enforcement officer or confidential informant, or interfere with any case under investigation; and no person or entity described in (1), (2) or (3) shall knowingly and publicly disclose such data; and all such data shall be immune from legal process, shall not be subject to subpoena or other discovery, shall be inadmissible in evidence, and shall not be used, relied on, or disclosed in any manner, nor shall testimony or other evidence be permitted based on the data, in a civil action in any State (including the District of Columbia) or Federal court or in an administrative proceeding other than a proceeding commenced by the Bureau of Alcohol, Tobacco, Firearms and Explosives to enforce the provisions of chapter 44 of such title, or a review of such an action or proceeding; except that this proviso shall not be construed to prevent: (A) the disclosure of statistical information concerning total production, importation, and exportation by each licensed importer (as

defined in section 921(a)(9) of such title) and licensed manufacturer (as defined in section 921(a)(10) of such title); (B) the sharing or exchange of such information among and between Federal, State, local, or foreign law enforcement agencies, Federal, State, or local prosecutors, and Federal national security, intelligence, or counterterrorism officials; or (C) the publication of annual statistical reports on products regulated by the Bureau of Alcohol, Tobacco, Firearms and Explosives, including total production, importation, and exportation by each licensed importer (as so defined) and licensed manufacturer (as so defined), or statistical aggregate data regarding firearms traffickers and trafficking channels, or firearms misuse, felons, and trafficking investigations”.

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 111-8, div. B, title II, Mar. 11, 2009, 123 Stat. 575.

Pub. L. 110-161, div. B, title II, Dec. 26, 2007, 121 Stat. 1903.

Pub. L. 109-108, title I, Nov. 22, 2005, 119 Stat. 2295.

Pub. L. 108-447, div. B, title I, Dec. 8, 2004, 118 Stat. 2859.

§ 924. Penalties

(a)(1) Except as otherwise provided in this subsection, subsection (b), (c), (f), or (p) of this section, or in section 929, whoever—

(A) knowingly makes any false statement or representation with respect to the information required by this chapter to be kept in the records of a person licensed under this chapter or in applying for any license or exemption or relief from disability under the provisions of this chapter;

(B) knowingly violates subsection (a)(4), (f), (k), or (q) of section 922;

(C) knowingly imports or brings into the United States or any possession thereof any firearm or ammunition in violation of section 922(l); or

(D) willfully violates any other provision of this chapter,

shall be fined under this title, imprisoned not more than five years, or both.

(2) Whoever knowingly violates subsection (a)(6), (d), (g), (h), (i), (j), or (o) of section 922 shall be fined as provided in this title, imprisoned not more than 10 years, or both.

(3) Any licensed dealer, licensed importer, licensed manufacturer, or licensed collector who knowingly—

(A) makes any false statement or representation with respect to the information required by the provisions of this chapter to be kept in the records of a person licensed under this chapter, or

(B) violates subsection (m) of section 922,

shall be fined under this title, imprisoned not more than one year, or both.

(4) Whoever violates section 922(q) shall be fined under this title, imprisoned for not more than 5 years, or both. Notwithstanding any other provision of law, the term of imprisonment imposed under this paragraph shall not run concurrently with any other term of imprisonment imposed under any other provision of law. Except for the authorization of a term of imprisonment of not more than 5 years made in this paragraph, for the purpose of any other law a violation of section 922(q) shall be deemed to be a misdemeanor.

(5) Whoever knowingly violates subsection (s) or (t) of section 922 shall be fined under this title, imprisoned for not more than 1 year, or both.

(6)(A)(i) A juvenile who violates section 922(x) shall be fined under this title, imprisoned not more than 1 year, or both, except that a juvenile described in clause (ii) shall be sentenced to probation on appropriate conditions and shall not be incarcerated unless the juvenile fails to comply with a condition of probation.

(ii) A juvenile is described in this clause if—

(I) the offense of which the juvenile is charged is possession of a handgun or ammunition in violation of section 922(x)(2); and

(II) the juvenile has not been convicted in any court of an offense (including an offense under section 922(x) or a similar State law, but not including any other offense consisting of conduct that if engaged in by an adult would not constitute an offense) or adjudicated as a juvenile delinquent for conduct that if engaged in by an adult would constitute an offense.

(B) A person other than a juvenile who knowingly violates section 922(x)—

(i) shall be fined under this title, imprisoned not more than 1 year, or both; and

(ii) if the person sold, delivered, or otherwise transferred a handgun or ammunition to a juvenile knowing or having reasonable cause to know that the juvenile intended to carry or otherwise possess or discharge or otherwise use the handgun or ammunition in the commission of a crime of violence, shall be fined under this title, imprisoned not more than 10 years, or both.

(7) Whoever knowingly violates section 931 shall be fined under this title, imprisoned not more than 3 years, or both.

(b) Whoever, with intent to commit therewith an offense punishable by imprisonment for a term exceeding one year, or with knowledge or reasonable cause to believe that an offense punishable by imprisonment for a term exceeding one year is to be committed therewith, ships, transports, or receives a firearm or any ammunition in interstate or foreign commerce shall be fined under this title, or imprisoned not more than ten years, or both.

(c)(1)(A) Except to the extent that a greater minimum sentence is otherwise provided by this subsection or by any other provision of law, any person who, during and in relation to any crime of violence or drug trafficking crime (including a crime of violence or drug trafficking crime that provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) for which the person may be prosecuted in a court of the United States, uses or carries a firearm, or who, in furtherance of any such crime, possesses a firearm, shall, in addition to the punishment provided for such crime of violence or drug trafficking crime—

(i) be sentenced to a term of imprisonment of not less than 5 years;

(ii) if the firearm is brandished, be sentenced to a term of imprisonment of not less than 7 years; and

(iii) if the firearm is discharged, be sentenced to a term of imprisonment of not less than 10 years.

(B) If the firearm possessed by a person convicted of a violation of this subsection—

(i) is a short-barreled rifle, short-barreled shotgun, or semiautomatic assault weapon, the person shall be sentenced to a term of imprisonment of not less than 10 years; or

(ii) is a machinegun or a destructive device, or is equipped with a firearm silencer or firearm muffler, the person shall be sentenced to a term of imprisonment of not less than 30 years.

(C) In the case of a second or subsequent conviction under this subsection, the person shall—

(i) be sentenced to a term of imprisonment of not less than 25 years; and

(ii) if the firearm involved is a machinegun or a destructive device, or is equipped with a firearm silencer or firearm muffler, be sentenced to imprisonment for life.

(D) Notwithstanding any other provision of law—

(i) a court shall not place on probation any person convicted of a violation of this subsection; and

(ii) no term of imprisonment imposed on a person under this subsection shall run concurrently with any other term of imprisonment imposed on the person, including any term of imprisonment imposed for the crime of violence or drug trafficking crime during which the firearm was used, carried, or possessed.

(2) For purposes of this subsection, the term “drug trafficking crime” means any felony punishable under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or chapter 705 of title 46.

(3) For purposes of this subsection the term “crime of violence” means an offense that is a felony and—

(A) has as an element the use, attempted use, or threatened use of physical force against the person or property of another, or

(B) that by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense.

(4) For purposes of this subsection, the term “brandish” means, with respect to a firearm, to display all or part of the firearm, or otherwise make the presence of the firearm known to another person, in order to intimidate that person, regardless of whether the firearm is directly visible to that person.

(5) Except to the extent that a greater minimum sentence is otherwise provided under this subsection, or by any other provision of law, any person who, during and in relation to any crime of violence or drug trafficking crime (including a crime of violence or drug trafficking crime that provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) for which the person may be prosecuted in a court of the United States, uses or carries armor piercing ammunition, or who, in furtherance of any such crime, possesses armor piercing ammunition, shall, in addition to the punishment provided for such crime of violence or drug trafficking crime or conviction under this section—

(A) be sentenced to a term of imprisonment of not less than 15 years; and

(B) if death results from the use of such ammunition—

(i) if the killing is murder (as defined in section 1111), be punished by death or sentenced to a term of imprisonment for any term of years or for life; and

(ii) if the killing is manslaughter (as defined in section 1112), be punished as provided in section 1112.

(d)(1) Any firearm or ammunition involved in or used in any knowing violation of subsection (a)(4), (a)(6), (f), (g), (h), (i), (j), or (k) of section 922, or knowing importation or bringing into the United States or any possession thereof any firearm or ammunition in violation of section 922(l), or knowing violation of section 924, or willful violation of any other provision of this chapter or any rule or regulation promulgated thereunder, or any violation of any other criminal law of the United States, or any firearm or ammunition intended to be used in any offense referred to in paragraph (3) of this subsection, where such intent is demonstrated by clear and convincing evidence, shall be subject to seizure and forfeiture, and all provisions of the Internal Revenue Code of 1986 relating to the seizure, forfeiture, and disposition of firearms, as defined in section 5845(a) of that Code, shall, so far as applicable, extend to seizures and forfeitures under the provisions of this chapter: *Provided*, That upon acquittal of the owner or possessor, or dismissal of the charges against him other than upon motion of the Government prior to trial, or lapse of or court termination of the restraining order to which he is subject, the seized or relinquished firearms or ammunition shall be returned forthwith to the owner or possessor or to a person delegated by the owner or possessor unless the return of the firearms or ammunition would place the owner or possessor or his delegate in violation of law. Any action or proceeding for the forfeiture of firearms or ammunition shall be commenced within one hundred and twenty days of such seizure.

(2)(A) In any action or proceeding for the return of firearms or ammunition seized under the provisions of this chapter, the court shall allow the prevailing party, other than the United States, a reasonable attorney's fee, and the United States shall be liable therefor.

(B) In any other action or proceeding under the provisions of this chapter, the court, when it finds that such action was without foundation, or was initiated vexatiously, frivolously, or in bad faith, shall allow the prevailing party, other than the United States, a reasonable attorney's fee, and the United States shall be liable therefor.

(C) Only those firearms or quantities of ammunition particularly named and individually identified as involved in or used in any violation of the provisions of this chapter or any rule or regulation issued thereunder, or any other criminal law of the United States or as intended to be used in any offense referred to in paragraph (3) of this subsection, where such intent is demonstrated by clear and convincing evidence, shall be subject to seizure, forfeiture, and disposition.

(D) The United States shall be liable for attorneys' fees under this paragraph only to the extent provided in advance by appropriation Acts.

(3) The offenses referred to in paragraphs (1) and (2)(C) of this subsection are—

(A) any crime of violence, as that term is defined in section 924(c)(3) of this title;

(B) any offense punishable under the Controlled Substances Act (21 U.S.C. 801 et seq.) or the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.);

(C) any offense described in section 922(a)(1), 922(a)(3), 922(a)(5), or 922(b)(3) of this title, where the firearm or ammunition intended to be used in any such offense is involved in a pattern of activities which includes a violation of any offense described in section 922(a)(1), 922(a)(3), 922(a)(5), or 922(b)(3) of this title;

(D) any offense described in section 922(d) of this title where the firearm or ammunition is intended to be used in such offense by the transferor of such firearm or ammunition;

(E) any offense described in section 922(i), 922(j), 922(l), 922(n), or 924(b) of this title; and

(F) any offense which may be prosecuted in a court of the United States which involves the exportation of firearms or ammunition.

(e)(1) In the case of a person who violates section 922(g) of this title and has three previous convictions by any court referred to in section 922(g)(1) of this title for a violent felony or a serious drug offense, or both, committed on occasions different from one another, such person shall be fined under this title and imprisoned not less than fifteen years, and, notwithstanding any other provision of law, the court shall not suspend the sentence of, or grant a probationary sentence to, such person with respect to the conviction under section 922(g).

(2) As used in this subsection—

(A) the term "serious drug offense" means—

(i) an offense under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or chapter 705 of title 46 for which a maximum term of imprisonment of ten years or more is prescribed by law; or

(ii) an offense under State law, involving manufacturing, distributing, or possessing with intent to manufacture or distribute, a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)), for which a maximum term of imprisonment of ten years or more is prescribed by law;

(B) the term "violent felony" means any crime punishable by imprisonment for a term exceeding one year, or any act of juvenile delinquency involving the use or carrying of a firearm, knife, or destructive device that would be punishable by imprisonment for such term if committed by an adult, that—

(i) has as an element the use, attempted use, or threatened use of physical force against the person of another; or

(ii) is burglary, arson, or extortion, involves use of explosives, or otherwise involves conduct that presents a serious potential risk of physical injury to another; and

(C) the term “conviction” includes a finding that a person has committed an act of juvenile delinquency involving a violent felony.

(f) In the case of a person who knowingly violates section 922(p), such person shall be fined under this title, or imprisoned not more than 5 years, or both.

(g) Whoever, with the intent to engage in conduct which—

(1) constitutes an offense listed in section 1961(1),

(2) is punishable under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or chapter 705 of title 46,

(3) violates any State law relating to any controlled substance (as defined in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6))), or

(4) constitutes a crime of violence (as defined in subsection (c)(3)),

travels from any State or foreign country into any other State and acquires, transfers, or attempts to acquire or transfer, a firearm in such other State in furtherance of such purpose, shall be imprisoned not more than 10 years, fined in accordance with this title, or both.

(h) Whoever knowingly transfers a firearm, knowing that such firearm will be used to commit a crime of violence (as defined in subsection (c)(3)) or drug trafficking crime (as defined in subsection (c)(2)) shall be imprisoned not more than 10 years, fined in accordance with this title, or both.

(i)(1) A person who knowingly violates section 922(u) shall be fined under this title, imprisoned not more than 10 years, or both.

(2) Nothing contained in this subsection shall be construed as indicating an intent on the part of Congress to occupy the field in which provisions of this subsection operate to the exclusion of State laws on the same subject matter, nor shall any provision of this subsection be construed as invalidating any provision of State law unless such provision is inconsistent with any of the purposes of this subsection.

(j) A person who, in the course of a violation of subsection (c), causes the death of a person through the use of a firearm, shall—

(1) if the killing is a murder (as defined in section 1111), be punished by death or by imprisonment for any term of years or for life; and

(2) if the killing is manslaughter (as defined in section 1112), be punished as provided in that section.

(k) A person who, with intent to engage in or to promote conduct that—

(1) is punishable under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or chapter 705 of title 46;

(2) violates any law of a State relating to any controlled substance (as defined in section 102 of the Controlled Substances Act, 21 U.S.C. 802); or

(3) constitutes a crime of violence (as defined in subsection (c)(3)),

smuggles or knowingly brings into the United States a firearm, or attempts to do so, shall be

imprisoned not more than 10 years, fined under this title, or both.

(l) A person who steals any firearm which is moving as, or is a part of, or which has moved in, interstate or foreign commerce shall be imprisoned for not more than 10 years, fined under this title, or both.

(m) A person who steals any firearm from a licensed importer, licensed manufacturer, licensed dealer, or licensed collector shall be fined under this title, imprisoned not more than 10 years, or both.

(n) A person who, with the intent to engage in conduct that constitutes a violation of section 922(a)(1)(A), travels from any State or foreign country into any other State and acquires, or attempts to acquire, a firearm in such other State in furtherance of such purpose shall be imprisoned for not more than 10 years.

(o) A person who conspires to commit an offense under subsection (c) shall be imprisoned for not more than 20 years, fined under this title, or both; and if the firearm is a machinegun or destructive device, or is equipped with a firearm silencer or muffler, shall be imprisoned for any term of years or life.

(p) PENALTIES RELATING TO SECURE GUN STORAGE OR SAFETY DEVICE.—

(1) IN GENERAL.—

(A) SUSPENSION OR REVOCATION OF LICENSE; CIVIL PENALTIES.—With respect to each violation of section 922(z)(1) by a licensed manufacturer, licensed importer, or licensed dealer, the Secretary may, after notice and opportunity for hearing—

(i) suspend for not more than 6 months, or revoke, the license issued to the licensee under this chapter that was used to conduct the firearms transfer; or

(ii) subject the licensee to a civil penalty in an amount equal to not more than \$2,500.

(B) REVIEW.—An action of the Secretary under this paragraph may be reviewed only as provided under section 923(f).

(2) ADMINISTRATIVE REMEDIES.—The suspension or revocation of a license or the imposition of a civil penalty under paragraph (1) shall not preclude any administrative remedy that is otherwise available to the Secretary.

(Added Pub. L. 90-351, title IV, §902, June 19, 1968, 82 Stat. 233; amended Pub. L. 90-618, title I, §102, Oct. 22, 1968, 82 Stat. 1223; Pub. L. 91-644, title II, §13, Jan. 2, 1971, 84 Stat. 1889; Pub. L. 98-473, title II, §§223(a), 1005(a), Oct. 12, 1984, 98 Stat. 2028, 2138; Pub. L. 99-308, §104(a), May 19, 1986, 100 Stat. 456; Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 99-570, title I, §1402, Oct. 27, 1986, 100 Stat. 3207-39; Pub. L. 100-649, §2(b), (f)(2)(B), (D), Nov. 10, 1988, 102 Stat. 3817, 3818; Pub. L. 100-690, title VI, §§6211, 6212, 6451, 6460, 6462, title VII, §§7056, 7060(a), Nov. 18, 1988, 102 Stat. 4359, 4360, 4371, 4373, 4374, 4402, 4403; Pub. L. 101-647, title XI, §1101, title XVII, §1702(b)(3), title XXII, §§2203(d), 2204(c), title XXXV, §§3526-3529, Nov. 29, 1990, 104 Stat. 4829, 4845, 4857, 4924; Pub. L. 103-159, title I, §102(c), title III, §302(d), Nov. 30, 1993, 107 Stat. 1541, 1545; Pub. L. 103-322, title VI, §60013, title XI, §§110102(c), 110103(c), 110105(2), 110201(b), 110401(e), 110503,

110504(a), 110507, 110510, 110515(a), 110517, 110518(a), title XXXIII, §§ 330002(h), 330003(f)(2), 330011(i), (j), 330016(1)(H), (K), (L), Sept. 13, 1994, 108 Stat. 1973, 1998–2000, 2011, 2015, 2016, 2018–2020, 2140, 2141, 2145, 2147; Pub. L. 104–294, title VI, § 603(m)(1), (n)–(p)(1), (q)–(s), Oct. 11, 1996, 110 Stat. 3505; Pub. L. 105–386, § 1(a), Nov. 13, 1998, 112 Stat. 3469; Pub. L. 107–273, div. B, title IV, § 4002(d)(1)(E), div. C, title I, § 11009(e)(3), Nov. 2, 2002, 116 Stat. 1809, 1821; Pub. L. 108–174, § 1(2), (3), Dec. 9, 2003, 117 Stat. 2481; Pub. L. 109–92, §§ 5(c)(2), 6(b), Oct. 26, 2005, 119 Stat. 2100, 2102; Pub. L. 109–304, § 17(d)(3), Oct. 6, 2006, 120 Stat. 1707.)

AMENDMENT OF SECTION

Pub. L. 100–649, § 2(f)(2)(B), (D), Nov. 10, 1988, 102 Stat. 3818, as amended by Pub. L. 101–647, title XXV, § 3526(b), Nov. 29, 1990, 104 Stat. 4924; Pub. L. 105–277, div. A, § 101(h) [title VI, § 649], Oct. 21, 1998, 112 Stat. 2681–480, 2681–528; Pub. L. 108–174, § 1, Dec. 9, 2003, 117 Stat. 2481, provided that, effective 25 years after the 30th day beginning after Nov. 10, 1988, subsection (a)(1) of this section is amended by striking “this subsection, subsection (b), (c), or (f) of this section, or in section 929” and inserting “this chapter”, subsection (f) of this section is repealed, and subsections (g) through (o) of this section are redesignated as subsections (f) through (n), respectively, of this section.

REFERENCES IN TEXT

The Internal Revenue Code of 1986, referred to in subsec. (d)(1), is set out as Title 26, Internal Revenue Code. Section 5845(a) of that Code, referred to in subsec. (d)(1), is classified to section 5845(a) of Title 26.

The Controlled Substances Act, referred to in subsecs. (c)(2), (d)(3)(B), (e)(2)(A)(i), (g)(2), and (k)(1), is title II of Pub. L. 91–513, Oct. 27, 1970, 84 Stat. 1242, as amended, which is classified principally to subchapter I (§ 801 et seq.) of chapter 13 of Title 21, Food and Drugs. For complete classification of this Act to the Code, see Short Title note set out under section 801 of Title 21 and Tables.

The Controlled Substances Import and Export Act, referred to in subsecs. (c)(2), (d)(3)(B), (e)(2)(A)(i), (g)(2), and (k)(1), is title III of Pub. L. 91–513, Oct. 27, 1970, 84 Stat. 1285, as amended, which is classified principally to subchapter II (§ 951 et seq.) of chapter 13 of Title 21. For complete classification of this Act to the Code, see Short Title note set out under section 951 of Title 21 and Tables.

AMENDMENTS

2006—Subsecs. (c)(2), (e)(2)(A)(i). Pub. L. 109–304, § 17(d)(3)(A), substituted “chapter 705 of title 46” for “the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.)”.

Subsec. (g)(2). Pub. L. 109–304, § 17(d)(3), substituted “801 et seq.” for “802 et seq.” and “chapter 705 of title 46” for “the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.)”.

Subsec. (k)(1). Pub. L. 109–304, § 17(d)(3)(A), substituted “chapter 705 of title 46” for “the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.)”.

2005—Subsec. (a)(1). Pub. L. 109–92, § 5(c)(2)(A), substituted “(f), or (p)” for “or (f)” in introductory provisions.

Subsec. (c)(5). Pub. L. 109–92, § 6(b), added par. (5).

Subsec. (p). Pub. L. 109–92, § 5(c)(2)(B), added subsec. (p).

2002—Subsec. (a)(7). Pub. L. 107–273, § 11009(e)(3), added par. (7).

Subsec. (e)(1). Pub. L. 107–273, § 4002(d)(1)(E), substituted “under this title” for “not more than \$25,000”.

1998—Subsec. (c)(1). Pub. L. 105–386, § 1(a)(1), added par. (1) and struck out former par. (1) which read as follows: “Whoever, during and in relation to any crime of violence or drug trafficking crime (including a crime of violence or drug trafficking crime which provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) for which he may be prosecuted in a court of the United States, uses or carries a firearm, shall, in addition to the punishment provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for five years, and if the firearm is a short-barreled rifle, short-barreled shotgun, or semiautomatic assault weapon, to imprisonment for ten years, and if the firearm is a machinegun, or a destructive device, or is equipped with a firearm silencer or firearm muffler, to imprisonment for thirty years. In the case of his second or subsequent conviction under this subsection, such person shall be sentenced to imprisonment for twenty years, and if the firearm is a machinegun, or a destructive device, or is equipped with a firearm silencer or firearm muffler, to life imprisonment without release. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person convicted of a violation of this subsection, nor shall the term of imprisonment imposed under this subsection run concurrently with any other term of imprisonment including that imposed for the crime of violence or drug trafficking crime in which the firearm was used or carried.”

Subsec. (c)(4). Pub. L. 105–386, § 1(a)(2), added par. (4). 1996—Subsec. (a)(1)(B). Pub. L. 104–294, § 603(n), repealed Pub. L. 103–322, § 330002(h). See 1994 Amendment note below.

Pub. L. 104–294, § 603(m)(1)(A), amended directory language of Pub. L. 103–322, § 110507. See 1994 Amendment note below.

Subsec. (a)(2). Pub. L. 104–294, § 603(m)(1)(B), amended directory language of Pub. L. 103–322, § 110507(2). See 1994 Amendment note below.

Subsec. (a)(5), (6). Pub. L. 104–294, § 603(o), redesignated par. (5), relating to punishment for juveniles, as (6).

Subsec. (c)(1). Pub. L. 104–294, § 603(p)(1), amended directory language of Pub. L. 103–322, § 110102(c)(2). See 1994 Amendment note below.

Subsec. (i). Pub. L. 104–294, § 603(r), redesignated subsec. (i), relating to death penalty for gun murders, as (j).

Subsec. (j). Pub. L. 104–294, § 603(r), redesignated subsec. (i) as (j). Former subsec. (j) redesignated (k).

Subsec. (j)(3). Pub. L. 104–294, § 603(q), inserted closing parenthesis before comma at end.

Subsec. (k). Pub. L. 104–294, § 603(r), redesignated subsec. (j) as (k). Former subsec. (k) redesignated (l).

Subsec. (l). Pub. L. 104–294, § 603(s), amended directory language of Pub. L. 103–322, § 110504. See 1994 Amendment note below.

Pub. L. 104–294, § 603(r), redesignated subsec. (k) as (l). Former subsec. (l) redesignated (m).

Subsecs. (m) to (o). Pub. L. 104–294, § 603(r), redesignated subsecs. (l) to (n) as (m) to (o), respectively.

1994—Subsec. (a)(1). Pub. L. 103–322, § 330016(1)(K), substituted “fined under this title” for “fined not more than \$5,000” in concluding provisions.

Pub. L. 103–322, § 330011(i), amended directory language of Pub. L. 101–647, § 3528. See 1990 Amendment note below.

Pub. L. 103–322, § 110201(b)(1), which directed the striking of “paragraph (2) or (3) of” in subsec. (a)(1), could not be executed because of prior amendment by Pub. L. 103–159. See 1993 Amendment note below.

Subsec. (a)(1)(B). Pub. L. 103–322, § 330002(h), which directed amendment of subpar. (B) by substituting “(r)” for “(q)”, was repealed by Pub. L. 104–294, § 603(n), which provided that § 330002(h) shall be considered never to have been enacted.

Pub. L. 103–322, § 110507(1), as amended by Pub. L. 104–294, § 603(m)(1)(A), struck out “(a)(6),” after “(a)(4),”.

Pub. L. 103-322, §110103(c), which substituted “(v), or (w)” for “or (v)”, was repealed by Pub. L. 103-322, §110105(2). See Effective and Termination Dates of 1994 Amendment note below.

Pub. L. 103-322, §110102(c)(1), which substituted “(r), or (v) of section 922” for “or (q) of section 922”, was repealed by Pub. L. 103-322, §110105(2). See Effective and Termination Dates of 1994 Amendment note below.

Subsec. (a)(2). Pub. L. 103-322, §110507(2), as amended by Pub. L. 104-294, §603(m)(1)(B), inserted “(a)(6),” after “subsection”.

Subsec. (a)(3). Pub. L. 103-322, §330016(1)(H), substituted “fined under this title” for “fined not more than \$1,000”.

Subsec. (a)(4). Pub. L. 103-322, §330016(1)(K), substituted “fined under this title” for “fined not more than \$5,000”.

Subsec. (a)(5). Pub. L. 103-322, §330016(1)(H), substituted “fined under this title” for “fined not more than \$1,000” in par. (5) relating to knowing violations of subsec. (s) or (t) of section 922.

Pub. L. 103-322, §110201(b)(2), added par. (5) relating to punishment for juveniles.

Subsec. (b). Pub. L. 103-322, §330016(1)(L), substituted “fined under this title” for “fined not more than \$10,000”.

Subsec. (c)(1). Pub. L. 103-322, §330011(j), amended directory language of Pub. L. 101-647, §3527. See 1990 Amendment note below.

Pub. L. 103-322, §110510(b), which directed the amendment of subsec. (c)(1) by striking “No person sentenced under this subsection shall be eligible for parole during the term of imprisonment imposed under this subsection.”, was executed by striking the last sentence, which read “No person sentenced under this subsection shall be eligible for parole during the term of imprisonment imposed herein.”, to reflect the probable intent of Congress.

Pub. L. 103-322, §§110102(c)(2), 110105(2), as amended by Pub. L. 104-294, §603(p)(1), temporarily amended subsec. (c)(1) by inserting “, or semiautomatic assault weapon,” after “short-barreled shotgun”. See Effective and Termination Dates of 1994 Amendment note below.

Subsec. (d)(1). Pub. L. 103-322, §110401(e), substituted “or lapse of or court termination of the restraining order to which he is subject, the seized or relinquished firearms” for “the seized firearms”.

Subsec. (e)(1). Pub. L. 103-322, §110510(a), struck out before period at end “, and such person shall not be eligible for parole with respect to the sentence imposed under this subsection”.

Subsec. (e)(2)(A)(i). Pub. L. 103-322, §330003(f)(2), substituted “the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.)” for “the first section or section 3 of Public Law 96-350 (21 U.S.C. 955a et seq.)”.

Subsec. (i). Pub. L. 103-322, §60013, added subsec. (i) relating to death penalty for gun murders.

Subsec. (i)(1). Pub. L. 103-322, §330016(1)(L), substituted “fined under this title” for “fined not more than \$10,000” in par. (1) of subsec. (i) relating to knowing violations of section 922(u).

Subsec. (j). Pub. L. 103-322, §110503, added subsec. (j).

Subsec. (k). Pub. L. 103-322, §110504(a), as amended by Pub. L. 104-294, §603(s), added subsec. (k).

Subsec. (l). Pub. L. 103-322, §110515(a), added subsec. (l).

Subsec. (m). Pub. L. 103-322, §110517, added subsec. (m).

Subsec. (n). Pub. L. 103-322, §110518(a), added subsec. (n).

1993—Subsec. (a)(1). Pub. L. 103-159, §102(c)(1), struck out “paragraph (2) or (3) of” before “this subsection” in introductory provisions.

Subsec. (a)(5). Pub. L. 103-159, §102(c)(2), added par. (5).

Subsec. (i). Pub. L. 103-159, §302(d), added subsec. (i).

1990—Subsec. (a)(1). Pub. L. 101-647, §3528, as amended by Pub. L. 103-322, §330011(i), substituted “(3) of this subsection” for “3 of this subsection” in introductory provisions.

Pub. L. 101-647, §2203(d), struck out “, and shall become eligible for parole as the Parole Commission shall determine” before period at end.

Subsec. (a)(1)(B). Pub. L. 101-647, §2204(c), substituted “(k), or (q)” for “or (k)”.

Subsec. (a)(2). Pub. L. 101-647, §3529(1), substituted “subsection” for “subsections” and inserted a comma after “10 years”.

Subsec. (a)(3). Pub. L. 101-647, §2203(d), struck out “, and shall become eligible for parole as the Parole Commission shall determine” before period at end.

Subsec. (a)(4). Pub. L. 101-647, §1702(b)(3), added par. (4).

Subsec. (c)(1). Pub. L. 101-647, §3527, as amended by Pub. L. 103-322, §330011(j), struck out “imprisonment for” before “life imprisonment without release”.

Pub. L. 101-647, §1101(2), which directed amendment of first sentence by “inserting ‘or a destructive device,’ after ‘a machinegun,’ wherever the term ‘machine gun’ appears, in section 924(c)(1)”, was executed by inserting the new language after “a machinegun,” once in the first sentence and once in the second sentence to reflect the probable intent of Congress.

Pub. L. 101-647, §1101(1), inserted “and if the firearm is a short-barreled rifle, short-barreled shotgun to imprisonment for ten years,” after “sentenced to imprisonment for five years.”.

Subsec. (e)(2). Pub. L. 101-647, §3529(2), (3), struck out “and” at end of subpar. (A)(ii) and substituted “; and” for period at end of subpar. (B)(ii).

Subsecs. (f) to (h). Pub. L. 101-647, §3526(a), redesignated subsec. (f) relating to punishment for traveling from any State or foreign country into another State to obtain firearms for drug trafficking purposes as subsec. (g) and redesignated former subsec. (g) as (h).

1988—Subsec. (a). Pub. L. 100-690, §6462, in par. (1), inserted “or 3” and substituted “, (c), or (f)” for “or (c)” in introductory provisions and struck out “(g), (i), (j),” after “(f),” in subpar. (B), added par. (2), and redesignated former par. (2) as (3).

Subsec. (c)(1). Pub. L. 100-690, §7060(a), substituted “crime (including a crime of violence or drug trafficking crime which” for “crime,, including a crime of violence or drug trafficking crime, which”, “device) for” for “device, for”, “crime, be sentenced” for “crime,, be sentenced”, and “crime in which” for “crime, or drug trafficking crime in which”.

Pub. L. 100-690, §6460(1), (2)(A), substituted “thirty years. In” for “ten years. In” and “twenty years, and if” for “ten years, and if”.

Pub. L. 100-690, §6460(2)(B), which directed amendment of subsec. (c)(1) by striking “20 years” and inserting “life imprisonment without release” was executed by substituting “life imprisonment without release” for “twenty years” to reflect the probable intent of Congress because “20 years” did not appear.

Subsec. (c)(2). Pub. L. 100-690, §6212, amended par. (2) generally. Prior to amendment, par. (2) read as follows: “For purposes of this subsection, the term ‘drug trafficking crime’ means any felony violation of Federal law involving the distribution, manufacture, or importation of any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)).”

Subsec. (e)(1). Pub. L. 100-690, §7056, inserted “committed on occasions different from one another,” after “or both.”.

Subsec. (e)(2)(B). Pub. L. 100-690, §6451(1), inserted “, or any act of juvenile delinquency involving the use or carrying of a firearm, knife, or destructive device that would be punishable by imprisonment for such term if committed by an adult,” after “one year”.

Subsec. (e)(2)(C). Pub. L. 100-690, §6451(2), added subpar. (C).

Subsec. (f). Pub. L. 100-690, §6211, added subsec. (f) relating to punishment for traveling from any State or foreign country into another State to obtain firearms for drug trafficking purposes.

Pub. L. 100-649, §2(b)(2), added subsec. (f) relating to penalty for violating section 922(p).

Subsec. (g). Pub. L. 100-690, §6211, added subsec. (g).
 1986—Subsec. (a). Pub. L. 99-308, §104(a)(1), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: “Whoever violates any provision of this chapter or knowingly makes any false statement or representation with respect to the information required by the provisions of this chapter to be kept in the records of a person licensed under this chapter, or in applying for any license or exemption or relief from disability under the provisions of this chapter, shall be fined not more than \$5,000, or imprisoned not more than five years, or both, and shall become eligible for parole as the Board of Parole shall determine.”

Subsec. (c)(1). Pub. L. 99-308, §104(a)(2)(C)–(E), designated existing provision as par. (1), and substituted “violence or drug trafficking crime,” for “violence” in four places and inserted “, and if the firearm is a machinegun, or is equipped with a firearm silencer or firearm muffler, to imprisonment for ten years” after “five years”, “, and if the firearm is a machinegun, or is equipped with a firearm silencer or firearm muffler, to imprisonment for twenty years” after “ten years”, and “or drug trafficking crime” before “in which the firearm was used or carried”.

Subsec. (c)(2), (3). Pub. L. 99-308, §104(a)(2)(F), added pars. (2) and (3).

Subsec. (d). Pub. L. 99-308, §104(a)(3), amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: “Any firearm or ammunition involved in or used or intended to be used in, any violation of the provisions of this chapter or any rule or regulation promulgated thereunder, or any violation of any other criminal law of the United States, shall be subject to seizure and forfeiture and all provisions of the Internal Revenue Code of 1954 relating to the seizure, forfeiture, and disposition of firearms, as defined in section 5845(a) of that Code, shall, so far as applicable, extend to seizures and forfeitures under the provisions of this chapter.”

Subsec. (d)(1). Pub. L. 99-514 substituted “Internal Revenue Code of 1986” for “Internal Revenue Code of 1954”.

Subsec. (e). Pub. L. 99-308, §104(a)(4), added subsec. (e).

Subsec. (e)(1). Pub. L. 99-570, §1402(a), substituted “for a violent felony or a serious drug offense, or both” for “for robbery or burglary, or both”.

Subsec. (e)(2). Pub. L. 99-570, §1402(b), amended par. (2) generally, substituting provisions defining terms “serious drug offense” and “violent felony” for provisions defining “robbery” and “burglary”.

1984—Subsec. (a). Pub. L. 98-473, §223(a), which directed amendment of subsec. (a) by striking out “, and shall become eligible for parole as the Board of Parole shall determine” effective Nov. 1, 1987, pursuant to section 235 of Pub. L. 98-473, as amended, could not be executed because quoted language no longer appears due to general amendment of subsec. (a) by Pub. L. 99-308, §104(a)(1). See 1986 Amendment note above.

Subsec. (c). Pub. L. 98-473, §1005(a), amended subsec. (c) generally, substituting provisions setting forth mandatory, determinate sentence for persons who use or carry firearms during and in relation to any Federal crime of violence for provisions setting out a minimum sentencing scheme for the use or carrying, unlawfully, of a firearm during a Federal felony.

1971—Subsec. (c). Pub. L. 91-644, in first sentence, substituted “felony for which he” for “felony which” in items (1) and (2) and inserted “, in addition to the punishment provided for the commission of such felony,” before “be sentenced”, and in second sentence substituted “for not less than two nor more than twenty-five years” for “for not less than five years nor more than 25 years”, inserted “in the case of a second or subsequent conviction” after “suspend the sentence”, and prohibited term of imprisonment imposed under this subsec. to run concurrently with any term for commission of the felony.

1968—Subsec. (a). Pub. L. 90-618 inserted provision authorizing the Board of Parole to grant parole to a person convicted under this chapter.

Subsec. (b). Pub. L. 90-618 inserted “or any ammunition” after “a firearm”.

Subsecs. (c), (d). Pub. L. 90-618 added subsec. (c), redesignated former subsec. (c) as (d), and as so redesignated, substituted “section 5845(a) of that Code” for “section 5848(1) of said Code”.

EFFECTIVE DATE OF 2005 AMENDMENT

Amendment by section 5(c)(2) of Pub. L. 109-92 effective 180 days after Oct. 26, 2005, see section 5(d) of Pub. L. 109-92, set out as a note under section 922 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Section 603(m)(2) of Pub. L. 104-294 provided that: “The amendments made by paragraph (1) [amending this section] shall take effect as if the amendments had been included in section 110507 of the Act referred to in paragraph (1) [Pub. L. 103-322] on the date of the enactment of such Act [Sept. 13, 1994].”

Section 603(p)(2) of Pub. L. 104-294 provided that: “The amendment made by paragraph (1) [amending this section] shall take effect as if the amendment had been included in section 110102(c)(2) of the Act referred to in paragraph (1) [Pub. L. 103-322] on the date of the enactment of such Act [Sept. 13, 1994].”

EFFECTIVE AND TERMINATION DATES OF 1994 AMENDMENT

Amendment by sections 110102(c) and 110103(c) of Pub. L. 103-322 repealed 10 years after Sept. 13, 1994, see section 110105(2) of Pub. L. 103-322, formerly set out as a note under section 921 of this title.

Section 33001(i) of Pub. L. 103-322 provided that the amendment made by that section is effective as of the date on which section 3528 of Pub. L. 101-647 took effect.

Section 33001(j) of Pub. L. 103-322 provided that the amendment made by that section is effective as of the date on which section 3527 of Pub. L. 101-647 took effect.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by section 1702(b)(3) of Pub. L. 101-647 applicable to conduct engaged in after end of 60-day period beginning on Nov. 29, 1990, see section 1702(b)(4) of Pub. L. 101-647, set out as a note under section 921 of this title.

Section 2203(d) of Pub. L. 101-647 provided that the amendment by that section is effective with respect to any offense committed after Nov. 1, 1987.

EFFECTIVE DATE OF 1988 AMENDMENT; SUNSET PROVISION

Amendment by section 2(b) of Pub. L. 100-649 effective 30th day beginning after Nov. 10, 1988, and amendment by section 2(f)(2)(B), (D) effective 25 years after such effective date, see section 2(f) of Pub. L. 100-649, as amended, set out as a note under section 922 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-308 effective 180 days after May 19, 1986, see section 110(a) of Pub. L. 99-308, set out as a note under section 921 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by section 223(a) of Pub. L. 98-473 effective Nov. 1, 1987, and applicable only to offenses committed after the taking effect of such amendment, see section 235(a)(1) of Pub. L. 98-473, set out as an Effective Date note under section 3551 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-618 effective Dec. 16, 1968, see section 105 of Pub. L. 90-618, set out as a note under section 921 of this title.

§ 925. Exceptions: Relief from disabilities

(a)(1) The provisions of this chapter, except for sections 922(d)(9) and 922(g)(9) and provisions re-

lating to firearms subject to the prohibitions of section 922(p), shall not apply with respect to the transportation, shipment, receipt, possession, or importation of any firearm or ammunition imported for, sold or shipped to, or issued for the use of, the United States or any department or agency thereof or any State or any department, agency, or political subdivision thereof.

(2) The provisions of this chapter, except for provisions relating to firearms subject to the prohibitions of section 922(p), shall not apply with respect to (A) the shipment or receipt of firearms or ammunition when sold or issued by the Secretary of the Army pursuant to section 4308 of title 10 before the repeal of such section by section 1624(a) of the Corporation for the Promotion of Rifle Practice and Firearms Safety Act, and (B) the transportation of any such firearm or ammunition carried out to enable a person, who lawfully received such firearm or ammunition from the Secretary of the Army, to engage in military training or in competitions.

(3) Unless otherwise prohibited by this chapter, except for provisions relating to firearms subject to the prohibitions of section 922(p), or any other Federal law, a licensed importer, licensed manufacturer, or licensed dealer may ship to a member of the United States Armed Forces on active duty outside the United States or to clubs, recognized by the Department of Defense, whose entire membership is composed of such members, and such members or clubs may receive a firearm or ammunition determined by the Attorney General to be generally recognized as particularly suitable for sporting purposes and intended for the personal use of such member or club.

(4) When established to the satisfaction of the Attorney General to be consistent with the provisions of this chapter, except for provisions relating to firearms subject to the prohibitions of section 922(p), and other applicable Federal and State laws and published ordinances, the Attorney General may authorize the transportation, shipment, receipt, or importation into the United States to the place of residence of any member of the United States Armed Forces who is on active duty outside the United States (or who has been on active duty outside the United States within the sixty day period immediately preceding the transportation, shipment, receipt, or importation), of any firearm or ammunition which is (A) determined by the Attorney General to be generally recognized as particularly suitable for sporting purposes, or determined by the Department of Defense to be a type of firearm normally classified as a war souvenir, and (B) intended for the personal use of such member.

(5) For the purpose of paragraph (3) of this subsection, the term "United States" means each of the several States and the District of Columbia.

(b) A licensed importer, licensed manufacturer, licensed dealer, or licensed collector who is indicted for a crime punishable by imprisonment for a term exceeding one year, may, notwithstanding any other provision of this chapter, continue operation pursuant to his existing license (if prior to the expiration of the term of the existing license timely application is made

for a new license) during the term of such indictment and until any conviction pursuant to the indictment becomes final.

(c) A person who is prohibited from possessing, shipping, transporting, or receiving firearms or ammunition may make application to the Attorney General for relief from the disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, transportation, or possession of firearms, and the Attorney General may grant such relief if it is established to his satisfaction that the circumstances regarding the disability, and the applicant's record and reputation, are such that the applicant will not be likely to act in a manner dangerous to public safety and that the granting of the relief would not be contrary to the public interest. Any person whose application for relief from disabilities is denied by the Attorney General may file a petition with the United States district court for the district in which he resides for a judicial review of such denial. The court may in its discretion admit additional evidence where failure to do so would result in a miscarriage of justice. A licensed importer, licensed manufacturer, licensed dealer, or licensed collector conducting operations under this chapter, who makes application for relief from the disabilities incurred under this chapter, shall not be barred by such disability from further operations under his license pending final action on an application for relief filed pursuant to this section. Whenever the Attorney General grants relief to any person pursuant to this section he shall promptly publish in the Federal Register notice of such action, together with the reasons therefor.

(d) The Attorney General shall authorize a firearm or ammunition to be imported or brought into the United States or any possession thereof if the firearm or ammunition—

(1) is being imported or brought in for scientific or research purposes, or is for use in connection with competition or training pursuant to chapter 401 of title 10;

(2) is an unserviceable firearm, other than a machinegun as defined in section 5845(b) of the Internal Revenue Code of 1986 (not readily restorable to firing condition), imported or brought in as a curio or museum piece;

(3) is of a type that does not fall within the definition of a firearm as defined in section 5845(a) of the Internal Revenue Code of 1986 and is generally recognized as particularly suitable for or readily adaptable to sporting purposes, excluding surplus military firearms, except in any case where the Attorney General has not authorized the importation of the firearm pursuant to this paragraph, it shall be unlawful to import any frame, receiver, or barrel of such firearm which would be prohibited if assembled; or

(4) was previously taken out of the United States or a possession by the person who is bringing in the firearm or ammunition.

The Attorney General shall permit the conditional importation or bringing in of a firearm or ammunition for examination and testing in connection with the making of a determination as to whether the importation or bringing in of such firearm or ammunition will be allowed under this subsection.

(e) Notwithstanding any other provision of this title, the Attorney General shall authorize the importation of, by any licensed importer, the following:

(1) All rifles and shotguns listed as curios or relics by the Attorney General pursuant to section 921(a)(13), and

(2) All handguns, listed as curios or relics by the Attorney General pursuant to section 921(a)(13), provided that such handguns are generally recognized as particularly suitable for or readily adaptable to sporting purposes.

(f) The Attorney General shall not authorize, under subsection (d), the importation of any firearm the importation of which is prohibited by section 922(p).

(Added Pub. L. 90-351, title IV, §902, June 19, 1968, 82 Stat. 233; amended Pub. L. 90-618, title I, §102, Oct. 22, 1968, 82 Stat. 1224; Pub. L. 98-573, title II, §233, Oct. 30, 1984, 98 Stat. 2991; Pub. L. 99-308, §105, May 19, 1986, 100 Stat. 459; Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 100-649, §2(c), (f)(2)(C), (E), Nov. 10, 1988, 102 Stat. 3817, 3818; Pub. L. 101-647, title XXII, §2203(b), (c), Nov. 29, 1990, 104 Stat. 4857; Pub. L. 104-106, div. A, title XVI, §1624(b)(3), Feb. 10, 1996, 110 Stat. 522; Pub. L. 104-208, div. A, title I, §101(f) [title VI, §658(d)], Sept. 30, 1996, 110 Stat. 3009-314, 3009-372; Pub. L. 104-294, title VI, §607(c), Oct. 11, 1996, 110 Stat. 3511; Pub. L. 107-296, title XI, §1112(f)(6), Nov. 25, 2002, 116 Stat. 2276; Pub. L. 108-174, §1(3), Dec. 9, 2003, 117 Stat. 2481.)

AMENDMENT OF SECTION

Pub. L. 100-649, §2(f)(2)(C), (E), Nov. 10, 1988, 102 Stat. 3818, as amended by Pub. L. 105-277, div. A, §101(h) [title VI, §649], Oct. 21, 1998, 112 Stat. 2681-480, 2681-528; Pub. L. 108-174, §1(1), (3), Dec. 9, 2003, 117 Stat. 2481, provided that, effective 25 years after the 30th day beginning after Nov. 10, 1988, subsection (a) of this section is amended by striking “and provisions relating to firearms subject to the prohibitions of section 922(p)” in par. (1), striking “, except for provisions relating to firearms subject to the prohibitions of section 922(p),” in par. (2), and striking “except for provisions relating to firearms subject to the prohibitions of section 922(p),” in pars. (3) and (4) and subsection (f) of this section is repealed.

REFERENCES IN TEXT

Section 4308 of title 10 before the repeal of such section by section 1624(a) of the Corporation for the Promotion of Rifle Practice and Firearms Safety Act, referred to in subsec. (a)(2)(A), means section 4308 of Title 10, Armed Forces, prior to repeal by section 1624(a)(1) of Pub. L. 104-106, div. A, title XVI, Feb. 10, 1996, 110 Stat. 522.

Section 5845(b) of the Internal Revenue Code of 1986, referred to in subsec. (d)(2), is classified to section 5845(b) of Title 26, Internal Revenue Code.

Section 5845(a) of the Internal Revenue Code of 1986, referred to in subsec. (d)(3), is classified to section 5845(a) of Title 26.

AMENDMENTS

2002—Subsecs. (a), (c) to (f). Pub. L. 107-296, which directed amendment of this section by substituting “Attorney General” for “Secretary” wherever appearing, was executed by making the substitution wherever ap-

pearing in subsecs. (a)(4) and (c) to (f), by not making the substitution for “Secretary of the Army” in subsec. (a)(2), and by substituting “Attorney General” for “Secretary of the Treasury” in subsec. (a)(3), to reflect the probable intent of Congress.

1996—Subsec. (a)(1). Pub. L. 104-208 inserted “sections 922(d)(9) and 922(g)(9) and” after “except for”.

Subsec. (a)(2)(A). Pub. L. 104-106 inserted “before the repeal of such section by section 1624(a) of the Corporation for the Promotion of Rifle Practice and Firearms Safety Act” after “section 4308 of title 10”.

Subsec. (a)(5). Pub. L. 104-294 substituted “For the purpose of paragraph (3)” for “For the purpose of paragraphs (3) and (4)”.

1990—Subsec. (a)(1). Pub. L. 101-647, §2203(b), inserted “possession,” before “or importation”.

Subsec. (c). Pub. L. 101-647, §2203(c), substituted “regarding the disability” for “regarding the conviction” and “barred by such disability” for “barred by such conviction” and struck out “by reason of such a conviction” after “incurred under this chapter”.

1988—Subsec. (a). Pub. L. 100-649, §2(c)(1), inserted “, except for provisions relating to firearms subject to the prohibitions of section 922(p),” after “chapter” in pars. (1) to (4).

Subsec. (f). Pub. L. 100-649, §2(c)(2), added subsec. (f).

1986—Subsec. (c). Pub. L. 99-308, §105(1), substituted “is prohibited from possessing, shipping, transporting, or receiving firearms or ammunition” for “has been convicted of a crime punishable by imprisonment for a term exceeding one year (other than a crime involving the use of a firearm or other weapon or a violation of this chapter or of the National Firearms Act)” and “shipment, transportation, or possession of firearms, and” for “shipment, or possession of firearms and incurred by reason of such conviction, and” and inserted provision that any person whose application for relief has been denied may file for judicial relief of such denial and that the court may admit additional evidence to avoid a miscarriage of justice.

Subsec. (d). Pub. L. 99-308, §105(2)(A), (B), (D), in provision preceding par. (1) substituted “shall authorize” for “may authorize” and struck out “the person importing or bringing in the firearm or ammunition establishes to the satisfaction of the Secretary that” after “thereof if”, and in provision following par. (4) substituted “shall permit” for “may permit”.

Subsec. (d)(2). Pub. L. 99-514 substituted “Internal Revenue Code of 1986” for “Internal Revenue Code of 1954”.

Subsec. (d)(3). Pub. L. 99-514 substituted “Internal Revenue Code of 1986” for “Internal Revenue Code of 1954”.

Pub. L. 99-308, §105(2)(C), inserted “except in any case where the Secretary has not authorized the importation of the firearm pursuant to this paragraph, it shall be unlawful to import any frame, receiver, or barrel of such firearm which would be prohibited if assembled”.

1984—Subsec. (e). Pub. L. 98-573 added subsec. (e).

1968—Subsec. (a). Pub. L. 90-618 redesignated existing provisions as par. (1), made minor changes in phraseology, and added pars. (2) to (5).

Subsec. (b). Pub. L. 90-618 added licensed collectors to the enumerated list of licensees.

Subsec. (c). Pub. L. 90-618 substituted “imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms and” for “under this chapter”, “to act in a manner dangerous to public safety” for “to conduct his operations in an unlawful manner,” and “licensed importer, licensed manufacturer, licensed dealer, or licensed collector” for “licensee”.

Subsec. (d). Pub. L. 90-618 made minor changes in phraseology, subjected ammunition to the authority of the Secretary in text preceding par. (1), substituted “section 5845(b)” for “section 5848(2)” in par. (2), substituted “section 5845(a)” for “section 5848(1)” and “excluding surplus military firearms” for “and in the case of surplus military firearms is a rifle or shotgun” in par. (3), inserted “or ammunition” after “the firearm”

in par. (4), and authorized the Secretary to permit the importation of ammunition for examination and testing in text following par. (4).

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-296 effective 60 days after Nov. 25, 2002, see section 4 of Pub. L. 107-296, set out as an Effective Date note under section 101 of Title 6, Domestic Security.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-106 effective on the earlier of the date on which the Secretary of the Army submits a certification in accordance with section 5523 of [former] Title 36, Patriotic Societies and Observances, or Oct. 1, 1996, see section 1624(c) of Pub. L. 104-106, set out as a note under section 4316 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1988 AMENDMENT; SUNSET PROVISION

Amendment by section 2(c) of Pub. L. 100-649 effective 30th day beginning after Nov. 10, 1988, and amendment by section 2(f)(2)(C), (E) effective 25 years after such effective date, see section 2(f) of Pub. L. 100-649, as amended, set out as a note under section 922 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-308 applicable to any action, petition, or appellate proceeding pending on May 19, 1986, see section 110(b) of Pub. L. 99-308, set out as a note under section 921 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-573 effective 15th day after Oct. 30, 1984, see section 214(a), (b) of Pub. L. 98-573, set out as a note under section 1304 of Title 19, Customs Duties.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-618 effective Dec. 16, 1968, except subsecs. (a)(1) and (d) effective Oct. 22, 1968, see section 105 of Pub. L. 90-618, set out as a note under section 921 of this title.

§ 925A. Remedy for erroneous denial of firearm

Any person denied a firearm pursuant to subsection (s) or (t) of section 922—

(1) due to the provision of erroneous information relating to the person by any State or political subdivision thereof, or by the national instant criminal background check system established under section 103 of the Brady Handgun Violence Prevention Act; or

(2) who was not prohibited from receipt of a firearm pursuant to subsection (g) or (n) of section 922,

may bring an action against the State or political subdivision responsible for providing the erroneous information, or responsible for denying the transfer, or against the United States, as the case may be, for an order directing that the erroneous information be corrected or that the transfer be approved, as the case may be. In any action under this section, the court, in its discretion, may allow the prevailing party a reasonable attorney's fee as part of the costs.

(Added Pub. L. 103-159, title I, §104(a), Nov. 30, 1993, 107 Stat. 1543.)

REFERENCES IN TEXT

Section 103 of the Brady Handgun Violence Prevention Act, referred to in par. (1), is section 103 of Pub. L.

103-159, which is set out as a note under section 922 of this title.

§ 926. Rules and regulations

(a) The Attorney General may prescribe only such rules and regulations as are necessary to carry out the provisions of this chapter, including—

(1) regulations providing that a person licensed under this chapter, when dealing with another person so licensed, shall provide such other licensed person a certified copy of this license;

(2) regulations providing for the issuance, at a reasonable cost, to a person licensed under this chapter, of certified copies of his license for use as provided under regulations issued under paragraph (1) of this subsection; and

(3) regulations providing for effective receipt and secure storage of firearms relinquished by or seized from persons described in subsection (d)(8) or (g)(8) of section 922.

No such rule or regulation prescribed after the date of the enactment of the Firearms Owners' Protection Act may require that records required to be maintained under this chapter or any portion of the contents of such records, be recorded at or transferred to a facility owned, managed, or controlled by the United States or any State or any political subdivision thereof, nor that any system of registration of firearms, firearms owners, or firearms transactions or dispositions be established. Nothing in this section expands or restricts the Secretary's¹ authority to inquire into the disposition of any firearm in the course of a criminal investigation.

(b) The Attorney General shall give not less than ninety days public notice, and shall afford interested parties opportunity for hearing, before prescribing such rules and regulations.

(c) The Attorney General shall not prescribe rules or regulations that require purchasers of black powder under the exemption provided in section 845(a)(5) of this title to complete affidavits or forms attesting to that exemption.

(Added Pub. L. 90-351, title IV, §902, June 19, 1968, 82 Stat. 234; amended Pub. L. 90-618, title I, §102, Oct. 22, 1968, 82 Stat. 1226; Pub. L. 99-308, §106, May 19, 1986, 100 Stat. 459; Pub. L. 103-322, title XI, §110401(d), Sept. 13, 1994, 108 Stat. 2015; Pub. L. 107-296, title XI, §1112(f)(6), Nov. 25, 2002, 116 Stat. 2276.)

REFERENCES IN TEXT

The date of the enactment of the Firearms Owners' Protection Act, referred to in subsec. (a), is the date of enactment of Pub. L. 99-308, which was approved May 19, 1986.

AMENDMENTS

2002—Subsecs. (a) to (c). Pub. L. 107-296 substituted "Attorney General" for "Secretary".

1994—Subsec. (a)(3). Pub. L. 103-322 added par. (3).

1986—Subsec. (a). Pub. L. 99-308, §106(1)-(4), designated existing provision as subsec. (a), and in subsec. (a) as so designated, in provision preceding par. (1) substituted "may prescribe only" for "may prescribe" and "as are" for "as he deems reasonably", and in closing provision substituted provision that no rule or regula-

¹ So in original. Probably should be "Attorney General's".

tion prescribed after May 19, 1986, require that records required under this chapter be recorded at or transferred to a facility owned, managed, or controlled by the United States or any State or political subdivision thereof, nor any system of registration of firearms, firearms owners, or firearms transactions or dispositions be established and that nothing in this section expand or restrict the authority of the Secretary to inquire into the disposition of any firearm in the course of a criminal investigation for provision that the Secretary give reasonable public notice, and afford an opportunity for a hearing, prior to prescribing rules and regulations.

Subsecs. (b), (c). Pub. L. 99-308, §106(5), added subsecs. (b) and (c).

1968—Pub. L. 90-618 inserted provisions authorizing the Secretary to prescribe regulations requiring a licensee, when dealing with another licensee, to provide such other licensee a certified copy of the license, and regulations authorizing the issuance of certified copies of the license required under this chapter.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-296 effective 60 days after Nov. 25, 2002, see section 4 of Pub. L. 107-296, set out as an Effective Date note under section 101 of Title 6, Domestic Security.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-308 effective 180 days after May 19, 1986, see section 110(a) of Pub. L. 99-308, set out as a note under section 921 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-618 effective Dec. 16, 1968, see section 105 of Pub. L. 90-618, set out as a note under section 921 of this title.

§ 926A. Interstate transportation of firearms

Notwithstanding any other provision of any law or any rule or regulation of a State or any political subdivision thereof, any person who is not otherwise prohibited by this chapter from transporting, shipping, or receiving a firearm shall be entitled to transport a firearm for any lawful purpose from any place where he may lawfully possess and carry such firearm to any other place where he may lawfully possess and carry such firearm if, during such transportation the firearm is unloaded, and neither the firearm nor any ammunition being transported is readily accessible or is directly accessible from the passenger compartment of such transporting vehicle: *Provided*, That in the case of a vehicle without a compartment separate from the driver's compartment the firearm or ammunition shall be contained in a locked container other than the glove compartment or console.

(Added Pub. L. 99-360, §1(a), July 8, 1986, 100 Stat. 766.)

PRIOR PROVISIONS

A prior section 926A, added Pub. L. 99-308, §107(a), May 19, 1986, 100 Stat. 460, provided that any person not prohibited by this chapter from transporting, shipping, or receiving a firearm be entitled to transport an unloaded, not readily accessible firearm in interstate commerce notwithstanding any provision of any legislation enacted, or rule or regulation prescribed by any State or political subdivision thereof, prior to repeal by Pub. L. 99-360, §1(a).

EFFECTIVE DATE

Section effective on date on which Firearms Owners' Protection Act, Pub. L. 99-308, became effective, see

section 2 of Pub. L. 99-360, set out as an Effective Date of 1986 Amendments note under section 921 of this title.

§ 926B. Carrying of concealed firearms by qualified law enforcement officers

(a) Notwithstanding any other provision of the law of any State or any political subdivision thereof, an individual who is a qualified law enforcement officer and who is carrying the identification required by subsection (d) may carry a concealed firearm that has been shipped or transported in interstate or foreign commerce, subject to subsection (b).

(b) This section shall not be construed to supersede or limit the laws of any State that—

(1) permit private persons or entities to prohibit or restrict the possession of concealed firearms on their property; or

(2) prohibit or restrict the possession of firearms on any State or local government property, installation, building, base, or park.

(c) As used in this section, the term "qualified law enforcement officer" means an employee of a governmental agency who—

(1) is authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law, and has statutory powers of arrest;

(2) is authorized by the agency to carry a firearm;

(3) is not the subject of any disciplinary action by the agency;

(4) meets standards, if any, established by the agency which require the employee to regularly qualify in the use of a firearm;

(5) is not under the influence of alcohol or another intoxicating or hallucinatory drug or substance; and

(6) is not prohibited by Federal law from receiving a firearm.

(d) The identification required by this subsection is the photographic identification issued by the governmental agency for which the individual is employed as a law enforcement officer.

(e) As used in this section, the term "firearm" does not include—

(1) any machinegun (as defined in section 5845 of the National Firearms Act);

(2) any firearm silencer (as defined in section 921 of this title); and

(3) any destructive device (as defined in section 921 of this title).

(Added Pub. L. 108-277, §2(a), July 22, 2004, 118 Stat. 865.)

REFERENCES IN TEXT

Section 5845 of the National Firearms Act, referred to in subsec. (e)(1), is classified to section 5845 of Title 26, Internal Revenue Code.

§ 926C. Carrying of concealed firearms by qualified retired law enforcement officers

(a) Notwithstanding any other provision of the law of any State or any political subdivision thereof, an individual who is a qualified retired law enforcement officer and who is carrying the identification required by subsection (d) may carry a concealed firearm that has been shipped or transported in interstate or foreign commerce, subject to subsection (b).

(b) This section shall not be construed to supersede or limit the laws of any State that—

(1) permit private persons or entities to prohibit or restrict the possession of concealed firearms on their property; or

(2) prohibit or restrict the possession of firearms on any State or local government property, installation, building, base, or park.

(c) As used in this section, the term “qualified retired law enforcement officer” means an individual who—

(1) retired in good standing from service with a public agency as a law enforcement officer, other than for reasons of mental instability;

(2) before such retirement, was authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law, and had statutory powers of arrest;

(3)(A) before such retirement, was regularly employed as a law enforcement officer for an aggregate of 15 years or more; or

(B) retired from service with such agency, after completing any applicable probationary period of such service, due to a service-connected disability, as determined by such agency;

(4) has a nonforfeitable right to benefits under the retirement plan of the agency;

(5) during the most recent 12-month period, has met, at the expense of the individual, the State’s standards for training and qualification for active law enforcement officers to carry firearms;

(6) is not under the influence of alcohol or another intoxicating or hallucinatory drug or substance; and

(7) is not prohibited by Federal law from receiving a firearm.

(d) The identification required by this subsection is—

(1) a photographic identification issued by the agency from which the individual retired from service as a law enforcement officer that indicates that the individual has, not less recently than one year before the date the individual is carrying the concealed firearm, been tested or otherwise found by the agency to meet the standards established by the agency for training and qualification for active law enforcement officers to carry a firearm of the same type as the concealed firearm; or

(2)(A) a photographic identification issued by the agency from which the individual retired from service as a law enforcement officer; and

(B) a certification issued by the State in which the individual resides that indicates that the individual has, not less recently than one year before the date the individual is carrying the concealed firearm, been tested or otherwise found by the State to meet the standards established by the State for training and qualification for active law enforcement officers to carry a firearm of the same type as the concealed firearm.

(e) As used in this section, the term “firearm” does not include—

(1) any machinegun (as defined in section 5845 of the National Firearms Act);

(2) any firearm silencer (as defined in section 921 of this title); and

(3) a destructive device (as defined in section 921 of this title).

(Added Pub. L. 108-277, §3(a), July 22, 2004, 118 Stat. 866.)

REFERENCES IN TEXT

Section 5845 of the National Firearms Act, referred to in subsec. (e)(1), is classified to section 5845 of Title 26, Internal Revenue Code.

§ 927. Effect on State law

No provision of this chapter shall be construed as indicating an intent on the part of the Congress to occupy the field in which such provision operates to the exclusion of the law of any State on the same subject matter, unless there is a direct and positive conflict between such provision and the law of the State so that the two cannot be reconciled or consistently stand together.

(Added Pub. L. 90-351, title IV, §902, June 19, 1968, 82 Stat. 234; amended Pub. L. 90-618, title I, §102, Oct. 22, 1968, 82 Stat. 1226.)

AMENDMENTS

1968—Pub. L. 90-618 struck out “or possession” after “State” wherever appearing.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-618 effective Dec. 16, 1968, see section 105 of Pub. L. 90-618, set out as a note under section 921 of this title.

§ 928. Separability

If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the remainder of the chapter and the application of such provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

(Added Pub. L. 90-351, title IV, §902, June 19, 1968, 82 Stat. 234; amended Pub. L. 90-618, title I, §102, Oct. 22, 1968, 82 Stat. 1226.)

AMENDMENTS

1968—Pub. L. 90-618 reenacted section without change.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-618 effective Dec. 16, 1968, see section 105 of Pub. L. 90-618, set out as a note under section 921 of this title.

§ 929. Use of restricted ammunition

(a)(1) Whoever, during and in relation to the commission of a crime of violence or drug trafficking crime (including a crime of violence or drug trafficking crime which provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) for which he may be prosecuted in a court of the United States, uses or carries a firearm and is in possession of armor piercing ammunition capable of being fired in that firearm, shall, in addition to the punishment provided for the commission of such crime of violence or drug trafficking crime

be sentenced to a term of imprisonment for not less than five years.

(2) For purposes of this subsection, the term “drug trafficking crime” means any felony punishable under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or chapter 705 of title 46.

(b) Notwithstanding any other provision of law, the court shall not suspend the sentence of any person convicted of a violation of this section, nor place the person on probation, nor shall the terms of imprisonment run concurrently with any other terms of imprisonment, including that imposed for the crime in which the armor piercing ammunition was used or possessed.

(Added Pub. L. 98-473, title II, §1006(a), Oct. 12, 1984, 98 Stat. 2139; amended Pub. L. 99-308, §108, May 19, 1986, 100 Stat. 460; Pub. L. 99-408, §8, Aug. 28, 1986, 100 Stat. 921; Pub. L. 100-690, title VI, §6212, title VII, §7060(b), Nov. 18, 1988, 102 Stat. 4360, 4404; Pub. L. 107-273, div. B, title IV, §4002(c)(4), Nov. 2, 2002, 116 Stat. 1809; Pub. L. 109-304, §17(d)(4), Oct. 6, 2006, 120 Stat. 1707.)

REFERENCES IN TEXT

The Controlled Substances Act, referred to in subsec. (a)(2), is title II of Pub. L. 91-513, Oct. 27, 1970, 84 Stat. 1242, as amended, which is classified principally to subchapter I (§801 et seq.) of chapter 13 of Title 21, Food and Drugs. For complete classification of this Act to the Code, see Short Title note set out under section 801 of Title 21 and Tables.

The Controlled Substances Import and Export Act, referred to in subsec. (a)(2), is title III of Pub. L. 91-513, Oct. 27, 1970, 84 Stat. 1285, as amended, which is classified principally to subchapter II (§951 et seq.) of chapter 13 of Title 21. For complete classification of this Act to the Code, see Short Title note set out under section 951 of Title 21 and Tables.

AMENDMENTS

2006—Subsec. (a)(2). Pub. L. 109-304 substituted “chapter 705 of title 46” for “the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.)”.

2002—Subsec. (b). Pub. L. 107-273 struck out at end “No person sentenced under this section shall be eligible for parole during the term of imprisonment imposed herein.”

1988—Subsec. (a)(1). Pub. L. 100-690, §7060(b), substituted “trafficking crime” for “trafficking crime,” in three places.

Subsec. (a)(2). Pub. L. 100-690, §6212, amended par. (2) generally. Prior to amendment, par. (2) read as follows: “For purposes of this subsection, the term ‘drug trafficking crime’ means any felony violation of Federal law involving the distribution, manufacture, or importation of any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)).”

1986—Subsec. (a). Pub. L. 99-408, §8(1), substituted “violence (including)” for “violence including”, “device) for” for “device for”, “a firearm and is in possession of armor piercing ammunition capable of being fired in that firearm” for “any handgun loaded with armor-piercing ammunition as defined in subsection (b)”, and “five years” for “five nor more than ten years”, and struck out provisions relating to suspension of sentence, probation, concurrent sentence and parole eligibility of any person convicted under this subsection.

Pub. L. 99-308 designated existing provision as par. (1), substituted “violence or drug trafficking crime,” for “violence” in three places, and added par. (2).

Subsec. (b). Pub. L. 99-408, §8(2), amended subsec. (b) generally, substituting provisions that the court may

not suspend sentence of any person convicted of a violation of this section or place the person on probation, that term of imprisonment may not run concurrently with other terms of imprisonment, and that the person is not eligible for parole during term of imprisonment, for provisions defining “armor-piercing ammunition” and “handgun”.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-308 effective 180 days after May 19, 1986, see section 110(a) of Pub. L. 99-308, set out as a note under section 921 of this title.

§ 930. Possession of firearms and dangerous weapons in Federal facilities

(a) Except as provided in subsection (d), whoever knowingly possesses or causes to be present a firearm or other dangerous weapon in a Federal facility (other than a Federal court facility), or attempts to do so, shall be fined under this title or imprisoned not more than 1 year, or both.

(b) Whoever, with intent that a firearm or other dangerous weapon be used in the commission of a crime, knowingly possesses or causes to be present such firearm or dangerous weapon in a Federal facility, or attempts to do so, shall be fined under this title or imprisoned not more than 5 years, or both.

(c) A person who kills any person in the course of a violation of subsection (a) or (b), or in the course of an attack on a Federal facility involving the use of a firearm or other dangerous weapon, or attempts or conspires to do such an act, shall be punished as provided in sections 1111, 1112, 1113, and 1117.

(d) Subsection (a) shall not apply to—

(1) the lawful performance of official duties by an officer, agent, or employee of the United States, a State, or a political subdivision thereof, who is authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of any violation of law;

(2) the possession of a firearm or other dangerous weapon by a Federal official or a member of the Armed Forces if such possession is authorized by law; or

(3) the lawful carrying of firearms or other dangerous weapons in a Federal facility incident to hunting or other lawful purposes.

(e)(1) Except as provided in paragraph (2), whoever knowingly possesses or causes to be present a firearm or other dangerous weapon in a Federal court facility, or attempts to do so, shall be fined under this title, imprisoned not more than 2 years, or both.

(2) Paragraph (1) shall not apply to conduct which is described in paragraph (1) or (2) of subsection (d).

(f) Nothing in this section limits the power of a court of the United States to punish for contempt or to promulgate rules or orders regulating, restricting, or prohibiting the possession of weapons within any building housing such court or any of its proceedings, or upon any grounds appurtenant to such building.

(g) As used in this section:

(1) The term “Federal facility” means a building or part thereof owned or leased by the Federal Government, where Federal employees

are regularly present for the purpose of performing their official duties.

(2) The term “dangerous weapon” means a weapon, device, instrument, material, or substance, animate or inanimate, that is used for, or is readily capable of, causing death or serious bodily injury, except that such term does not include a pocket knife with a blade of less than 2½ inches in length.

(3) The term “Federal court facility” means the courtroom, judges’ chambers, witness rooms, jury deliberation rooms, attorney conference rooms, prisoner holding cells, offices of the court clerks, the United States attorney, and the United States marshal, probation and parole offices, and adjoining corridors of any court of the United States.

(h) Notice of the provisions of subsections (a) and (b) shall be posted conspicuously at each public entrance to each Federal facility, and notice of subsection (e) shall be posted conspicuously at each public entrance to each Federal court facility, and no person shall be convicted of an offense under subsection (a) or (e) with respect to a Federal facility if such notice is not so posted at such facility, unless such person had actual notice of subsection (a) or (e), as the case may be.

(Added Pub. L. 100-690, title VI, § 6215(a), Nov. 18, 1988, 102 Stat. 4361; amended Pub. L. 101-647, title XXII, § 2205(a), Nov. 29, 1990, 104 Stat. 4857; Pub. L. 103-322, title VI, § 60014, Sept. 13, 1994, 108 Stat. 1973; Pub. L. 104-294, title VI, § 603(t), (u), Oct. 11, 1996, 110 Stat. 3506; Pub. L. 107-56, title VIII, § 811(b), Oct. 26, 2001, 115 Stat. 381; Pub. L. 110-177, title II, § 203, Jan. 7, 2008, 121 Stat. 2537.)

AMENDMENTS

2008—Subsec. (e)(1). Pub. L. 110-177 inserted “or other dangerous weapon” after “firearm”.

2001—Subsec. (c). Pub. L. 107-56 struck out “or attempts to kill” after “A person who kills”, inserted “or attempts or conspires to do such an act,” before “shall be punished”, and substituted “1113, and 1117” for “and 1113”.

1996—Subsec. (e)(2). Pub. L. 104-294, § 603(t), substituted “subsection (d)” for “subsection (c)”.

Subsec. (g). Pub. L. 104-294, § 603(u)(1), redesignated subsec. (g), related to posting notice in Federal facilities, as (h).

Subsec. (h). Pub. L. 104-294, § 603(u)(2), substituted “(e)” for “(d)” wherever appearing.

Pub. L. 104-294, § 603(u)(1), redesignated subsec. (g), related to posting notice in Federal facilities, as (h).

1994—Subsec. (a). Pub. L. 103-322, § 60014(2), substituted “(d)” for “(c)”.

Subsecs. (c) to (g). Pub. L. 103-322, § 60014(1), (3), added subsec. (c) and redesignated former subsecs. (c) to (f) as (d) to (g), respectively.

1990—Subsec. (a). Pub. L. 101-647, § 2205(a)(1), inserted “(other than a Federal court facility)” after “Federal facility”.

Subsecs. (d), (e). Pub. L. 101-647, § 2205(a)(2), (3), added subsec. (d) and redesignated former subsec. (d) as (e). Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 101-647, § 2205(a)(2), redesignated subsec. (e) as (f). Former subsec. (f) redesignated (g).

Subsec. (f)(3). Pub. L. 101-647, § 2205(a)(4), added par. (3).

Subsec. (g). Pub. L. 101-647, § 2205(a)(5), inserted “and notice of subsection (d) shall be posted conspicuously at each public entrance to each Federal court facility,” after “each Federal facility,” “or (d)” before “with respect to”, and “or (d), as the case may be” before the period.

Pub. L. 101-647, § 2205(a)(2), redesignated subsec. (f) as (g).

EFFECTIVE DATE OF 1990 AMENDMENT

Section 2205(b) of Pub. L. 101-647 provided that: “The amendments made by subsection (a) [amending this section] shall apply to conduct engaged in after the date of the enactment of this Act [Nov. 29, 1990].”

§ 931. Prohibition on purchase, ownership, or possession of body armor by violent felons

(a) IN GENERAL.—Except as provided in subsection (b), it shall be unlawful for a person to purchase, own, or possess body armor, if that person has been convicted of a felony that is—

(1) a crime of violence (as defined in section 16); or

(2) an offense under State law that would constitute a crime of violence under paragraph (1) if it occurred within the special maritime and territorial jurisdiction of the United States.

(b) AFFIRMATIVE DEFENSE.—

(1) IN GENERAL.—It shall be an affirmative defense under this section that—

(A) the defendant obtained prior written certification from his or her employer that the defendant’s purchase, use, or possession of body armor was necessary for the safe performance of lawful business activity; and

(B) the use and possession by the defendant were limited to the course of such performance.

(2) EMPLOYER.—In this subsection, the term “employer” means any other individual employed by the defendant’s business that supervises defendant’s activity. If that defendant has no supervisor, prior written certification is acceptable from any other employee of the business.

(Added Pub. L. 107-273, div. C, title I, § 11009(e)(2)(A), Nov. 2, 2002, 116 Stat. 1821.)

CHAPTER 45—FOREIGN RELATIONS

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